

CHAPTER 2-000 DEFINITIONS:

Aid to the Aged Blind and Disabled (AABD) means a program which provides financial and/or medical assistance to persons who are 65 or older or who are younger than 65 and are blind or disabled, as defined by the program.

Account activity summary means a statement sent to an obligee containing a summary of the support account activity.

Acknowledged father means a male who has executed a written acknowledgement of paternity.

Acknowledgement of paternity means a written process by which a man declares that he is the father of a child born to a woman who he is not married.

Administrative enforcement means a process by which Child Support Enforcement, rather than the court, takes enforcement action against a payor. Actions can include tax refund intercept program (TRIP), consumer credit reporting (CCR), income withholding (IW), administrative attachment, and license suspension.

Administrative offset means a program which can intercept certain federal payments for the purpose of collecting past-due support.

Administrative order means a support order established by Child Support Enforcement rather than the court. A judge signs an administrative order before it becomes final.

Affidavit means a written, notarized statement signed under oath or by affirmation.

Age of majority means the age at which a child becomes legally responsible for him or herself. In Nebraska, the age of majority is 19.

Aid To Dependent Children (ADC) means public assistance payments made on behalf of children who are deprived of the financial support of one or both of their parents by reason of death, disability or continued absence from the home. It was known in some states as Aid to Families with Dependent Children (AFDC). The Welfare Reform initiatives of 1996 now refer to the program as Temporary Assistance to Needy Families (TANF).

Alleged father means the man believed to be the biological father of a child, but not yet established as such.

Allocation means a determination of the proper apportionment of support payments to apply to more than one support order.

Appeal means a request for a review of a decision or an action that is in progress or proposed on a child support case.

Applicant means an individual who has applied for, or receives continued child support services under Title IV-D, including individuals who previously received a form of public assistance.

Apportionment means division into shares.

Application means the form by which the individual requests services.

Arrearage means past due child support owed under a court order or an administrative order. If the obligor has arrearages she/he is said to be "in arrears".

Assigned means that a court ordered support payment is transferred to the state rather than being paid to the obligee.

Assignment means the legal transfer of the obligee's right to child support, medical support and/or spousal support to the Nebraska Department of Health and Human Services (DHHS) in exchange for receipt of a cash assistance grant and other benefits.

Assistance (See definition of "Public assistance")

Authorized attorney means an attorney employed by the county subject to the approval of the county board, contracted by Child Support Enforcement or appointed by the court, who is authorized to investigate and prosecute child, spousal and medical support cases.

Banking Services means SDU related deposit and checking services to include daily deposits, payments, reconciliation, stop payment orders and the initiation and receipt of automated clearing house debits and credits.

Bankruptcy means the procedure by which an individual is relieved of debt(s) through an action in federal court.

Bench warrant means a document issued by the court which authorizes law enforcement to arrest an individual for failing to appear as ordered.

Billing statement means a monthly statement sent to an obligor containing support account summary information and remittance coupons.

Biological father means the natural father, but not necessarily the legal father, of a child.

Biological Father Registry means the registry that contains the names and addresses of:

1. Any person adjudicated by a court, to be the father of a child born out of wedlock;
2. Any person who has filed with the registry a notice of intent to claim paternity and to claim custody of such child;
3. Any person adjudicated by a court of another state or territory of the United States to be the father of such child;

Biological mother means the woman who gave birth to the child.

Bond means a sum of money deposited by an obligor to guarantee payment of required support.

Caretaker means a person, other than a parent, who is responsible for a dependent child's welfare and has physical custody of the dependent child.

Case registry means:

1. The Federal Case Registry (FCR) is a national database that acts as a repository for IV-D and non IV-D child support cases. The data is constructed from child support cases and order information, including identifying information for both parents and the dependent child(ren) for whom the order requires a provision of support; or
2. The State Case Registry (SCR) is a state database that contains records regarding services being provided on each IV-D child support case and support orders. This Registry also includes non-IV-D child support cases registered in all legal jurisdictions within the state that were established or modified on or after October 1, 1998.

Central registry means a centralized unit, maintained by every State IV-D agency that is responsible for receiving, distributing, and responding to inquiries on interstate IV-D cases.

Certified copy means a copy of a document or record signed and verified as a true copy by a person who created and/or is the custodian of the document.

Certified Mail means a type of service of process. Certified mail service is made by (1) within 10 days of issuance, sending the summons to the respondent by certified mail with a return receipt requested showing to whom and where delivered and the date of delivery, and (2) filing with the court proof of service with the signed receipt attached.

Child born out of wedlock means a child whose parents were not married to each other at the time of birth. A child is not considered as born out of wedlock if the parents were married at the time of conception, but divorced at the time of birth.

Child support (CS) means the legal obligation of parents to contribute to the economic maintenance, of their children; enforceable in both civil and criminal contexts.

Child Support Enforcement means the administrative division within the Nebraska Department of Health and Human Services that is responsible for the administration of the child support program. It is also called the IV-D agency.

Clerk of the District Court (CDC) means the elected county official with the duty of maintaining all district court-related records.

Code of Federal Regulations (CFR) means the rules established by the federal government which govern the standards and operations of the state's child support activities.

Collection means money received to be applied to a child support obligation, arrears, interest or other ordered judgements.

Conditionally assigned arrearages means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as the date the family leaves the assistance rolls and which are owed to the family unless they are collected through federal income tax refunds offset. They are arrearages which were temporarily assigned to the state and became conditionally assigned to the state when the temporary assignment expired. If a conditionally assigned arrearage is collected through a federal income tax refund offset, the collection is retained by the state to reimburse the state and the federal government up to the cumulative amount of unreimbursed assistance paid to the family. Collections of conditionally assigned arrearages by any other enforcement mechanism are paid to the family.

Consumer credit reporting (CCR) means a process by which the child support agency submits child support court orders with a total delinquency in excess of \$500 to consumer credit reporting agencies.

Contempt means a person's willful failure to comply with an order of the court which may result in a fine or imprisonment.

Cooperation means a condition of ADC eligibility whereby the recipient assists the child support agency as requested in identifying and locating the non-custodial parent, establishing paternity, and/or obtaining child support payments.

Cooperative agreement means a contract between the Department and outside entities to provide IV-D services or perform IV-D functions as specified in federal and state statutes or regulations.

County attorney means an attorney who is an elected county official who represents the state, and is authorized to investigate and prosecute child, spousal, and medical support cases.

Court order number means the number assigned by a clerk of the court to a legal document/action filed in the county.

Criminal Non-Support means the willful and unreasonable failure to support one whom the law requires a person to support (i.e. child, medical and spousal support)

Current support means the amount of financial support which is paid in the month it is due.

Custodial party (CP) means the individual or organization who has primary care and control of the dependent child(ren). Custodial party may be a parent, relative or other individual who has the responsibility for the child(ren).

Custody means the legal determination of responsibility for the care and control of a child.

Default means the failure of a defendant to appear or file an answer in response to a summons or complaint in a civil case.

Default judgment/order means a decision made by the court when the defendant fails to respond.

Defendant means a person who must respond to a complaint filed in court.

Delinquent support means support payments that are past due.

Department means the Department of Health and Human Services and if the department designates, includes a county attorney or authorized attorney.

Dependent child means a minor person who is entitled to support from his/her parents or others in place of his/her parents.

Direct income withholding means a procedure, whereby an income withholding order can be sent directly to the non-custodial party's employer in another state, without the need to use the IV-D agency or court system in the non-custodial party's state.

Director means the Director of Health and Human Services or his/her designee.

Disbursement means the paying out of collected support.

Dismissal means an order terminating an action, suit or motion without trial of the issues.

Dismissal with prejudice means a dismissal that does not allow the parties to bring or maintain another action on the same claim.

Dismissal without prejudice means a dismissal that allows the parties to bring or maintain another action on the same claim.

Dissolution of marriage means the termination of a marriage by a decree of a court of competent jurisdiction.

Distribution means the apportionment of child support collected to the various types of debt within a child support case according to the guidelines established by state and federal laws.

Divorce (See definition of "Dissolution of marriage").

Docket means a chronological record of actions taken in a court case and which is maintained by the court.

Due process means providing sufficient notice of legal and/or administrative actions, including notices and hearings to the participants, and advising him/her of their rights, and providing an opportunity to be heard.

Duration of lien means the point at which a support judgment ceases to be a lien on real or registered personal property. In Nebraska the period is ten years from the date the youngest child becomes of age or dies, or the most recent action was issued to collect the judgment, whichever is later.

Electronic funds transfer (EFT) means the process by which money is transmitted electronically from one bank account to another.

Emancipation means the attainment of legal majority, either by reaching age 19 (in Nebraska), by marrying, entering the military before age 19, or by meeting other criteria as determined by the court. Emancipation releases a child from parental control and supervision and also releases a parent from the responsibility to support the child.

Employer list means a document for employers listing obligors on income withholding and their monthly support due. This document is designed to accompany a support payment that will assist in associating the payment to the obligor.

Enforcement means an action taken to obtain payment of a support obligation.

Establishment means the process of obtaining a legal finding of paternity and/or obtaining a court or administrative order to put a support obligation in place.

Execution means the legal process of enforcing a judgement, usually by seizing and selling the property of the obligor.

Execution on Child Support Lien means an action taken to enforce the underlying judgment.

Family Violence Indicator (FVI) means a designation in the Federal Case Registry (FCR) used to prevent disclosure of the location of a custodial party and/or a child believed by the state to be at risk of family violence.

Federal Case Registry (See definition of "Case registry")

Federal Employer Identification Number (FEIN) means the unique nine-digit number assigned to all employers by the Internal Revenue Service (IRS).

Federal Fiscal Year (FFY) means the annual accounting period of the federal government which begins on October 1 and ends on September 30 of the next calendar year. The fiscal year is identified by the calendar year in which it ends and commonly is referred to as "FFY". For example, FFY 2000 began October 1, 1999 and ended on September 30, 2000.

Federal Information Processing Standard (FIPS) means a unique code that identifies the child support jurisdiction such as states, counties, and state central registries.

Federal Parent Locator Service (FPLS) means a computerized national location network operated by the Federal Office of Child Support Enforcement (OCSE), to assist states in locating responsible persons for the purpose of enforcing child support payments and/or medical support. This service is also used for the purposes of establishing custody and visitation rights, investigating parental kidnapping, and processing adoption or foster care cases. The information provided is obtained from various federal agencies.

Final termination of assignment means the ending of an assignment of support so that no additional funds will be transmitted to the Department. A final termination is filed when an ADC or FC case is closed, and no debt is owed to the state.

Foreign support order means support ordered by a court of competent jurisdiction and/or other legal process as established by state law in another state on behalf of a minor child and/or spouse or former spouse.

Foster care (FC) means federal or state programs administered by the Department of Health and Human Services that provide financial support to persons, families, or institutions caring for children in state custody. FC includes subsidized guardianship but does not include subsidized adoption.

Full Faith and Credit means the constitutional requirement that a state must honor an order or judgment entered in another state.

Full service means the entire range of services offered by the IV-D program, including: location; case initiation; paternity establishment; child and medical support establishment; collection and distribution; enforcement; review and adjustment of orders and administrative enforcement options to encourage payment.

Garnishment means a legal proceeding under which part of a person's wages and/or assets is withheld for payment of a debt.

Genetic testing means the analysis of inherited factors to determine biological paternity.

Good cause means a determination that an ADC recipient is excused from cooperating with the child support enforcement process.

Guidelines means a standard method for setting the amount of child support obligations based on the income of the parent(s) and other factors. The Nebraska Supreme Court establishes the guidelines.

Hearing means a proceeding in which a judge or hearing officer listens to testimony and argument and makes a decision based on the information presented and the law as it applies to the fact.

Income withholding means an action resulting in the automatic deduction of a child support obligation(s) from the obligor's income or wages. Income withholding may also be referred to as wage withholding.

Initiating jurisdiction means the court or administrative agency requesting action in an interstate support matter.

Initiating state means the state that first makes a request of another state in an interstate action.

Interception means a method of securing child support by taking non-wage payments made to a non-custodial party. Non-wage payments subject to interception include federal tax refunds, state tax refunds, unemployment benefits, lottery prize winnings, and some government payments.

Interstate case means a case in which the dependent child and non-custodial party live in different states, or where two or more states are involved in some case activity, such as enforcement.

Intrastate action means an action requested from one jurisdiction within the State of Nebraska to a different Nebraska jurisdiction.

IV-A ("Four-A") means Title IV-A of the Federal Social Security Act. It established the Federal-State program known as ADC or TANF.

IV-D ("Four-D") means Title IV-D of the Social Security Act. It established the Federal-State program known as Child Support Enforcement.

IV-D agency means a single and separate organizational unit in a state that has the responsibility for administering the State Plan for child support under Title IV-D of the Social Security Act.

IV-D case means a child support case where at least one of the parties, either the custodial party (CP) or the non-custodial party (NCP), has requested or received IV-D services from the State's IV-D Agency. A IV-D case is composed of a custodial party, non-custodial party, or putative father, and dependent(s).

IV-E ("Four-E") means Title IV-E of the Social Security Act. It established the Federal-State program known as Foster Care.

Judgement means a decree or decision of a court, which may result in an obligation being owed by a party. In Nebraska, all support orders automatically become judgements.

Judgment Creditor means one who has obtained a judgment against a debtor, under which ~~he~~/she s/he can enforce execution. A person in whose favor a money judgment is entered or a person who becomes entitled to enforce it. Owner of an unsatisfied judgment.

Judgment Debtor means a person against whom judgment has been recovered, and which remains unsatisfied.

Jurisdiction means the legal authority which a court or administrative agency has over particular persons and over certain types of cases, usually in a defined geographical area.

Last reported arrears means the amount of arrears last reported to the IRS or Nebraska Department of Revenue.

Legal father means a man who is recognized by law as the male parent of a child.

Legal Guardian means an individual appointed by a court of competent jurisdiction to be in charge of the affairs of a person who cannot effectively manage his/her own affairs because of his/her age or incapacity.

License Holder means a person who is currently licensed and/or meets the requirements of a licensing authority to engage in an activity, business or occupation that would be unlawful without the presence of a license.

Lien means a claim upon property to prevent sale or transfer of that property until a debt is satisfied.

Location means the process by which a custodial and/or non-custodial party or alleged father is found for the purpose of establishing paternity, establishing and/or enforcing a child support obligation, establishing custody and visitation rights, processing adoption or foster care cases, and investigating parental kidnapping.



Locate only means a type of request for IV-D services in which the only child support service requested is finding the custodial and/or non-custodial party.

Long arm jurisdiction means the legal provision that permits one state to claim personal jurisdiction over someone who lives in another state. There must be some meaningful connection between the person in the state that is asserting jurisdiction in order for a court or agency to reach beyond its normal jurisdictional border.

Medicaid means a form of public assistance providing medical aid for people who's income falls below a certain level.

Medical Assistance (MA) Only means a form of public assistance administered by a State's IV-A program, which provides benefits to recipients only in the form of medical rather than financial assistance.

Medical reimbursement means a form of medical support in which an administrative order or court order exists requiring payment of past medical expenditures which may include birth related medical expenses.

Medical support (MS) means:

1. Health insurance which includes fees for services, medical and hospital insurance, membership in health maintenance organizations (HMO's), and Preferred Provider Organizations (PPO's); and/or
2. Specific dollar amounts designated in the court order for medical purposes, including medical expenses related to the birth of a child.

Military allotment means a voluntary or involuntary wage withholding actions against active duty military pay.

Minor means an individual age 18 or younger who has not been legally emancipated.

Modification means a court ordered change to an existing support order.

Nebraska Child Support Payment Center means the single centralized collection site in Nebraska where support payments are received, receipted, and disbursed.

Net income means the amount of income subject to withholding after deduction of exemptions that are allowable in accordance with the Nebraska Child Support Guidelines, and have been subtracted from the gross or total income.

Never-assigned arrearage means all arrearages in never assistance cases, and in former assistance cases, means those arrearages that accrue after the family's most recent period of assistance ends.

Non-cooperation means the failure of a public assistance recipient to meet the cooperation requirements.

Non-custodial Party means the parent who does not have primary care, custody, or control of the child.

Non-IV-D means neither the custodial or non-custodial party has requested child support services.

Non-monetary transactions means adjustment to amounts owed or due that does not involve currency, such as court waived arrearages, or a signed receipt of payment from the obligee.

Non-public assistance (NPA) means the type of IV-D case in which the recipient of IV-D services does not receive ADC, foster care, or Medicaid.

Obligation means the amount of money to be paid as support by a non-custodial parent. An obligation can take the form of financial support for the child, medical support, or spousal support. It is a recurring, ongoing obligation, not a onetime debt.

Obligee means the party to whom support is owed.

Obligor means the party owing a duty of support.

Office of Child Support Enforcement (OCSE) means the federal agency responsible for the administration of the child support program, as created by Title IV-D of the Social Security Act in 1975

Offset means the amount of money intercepted from a parent's state or federal income tax refund, or from an administrative payment such as federal retirement benefits, in order to satisfy a child support debt.

Order means a legal directive from a judge or properly empowered administrative officer.

Order date means the date a court order becomes official; usually the date that the order is file-stamped by the clerk's office.

Original submittal means the original arrears amount submitted to the Tax Refund Intercept program (TRIP). The arrears can be a state debt, payee debt or a combination of the two.

Overpaid Party means an individual who received support payments in error.

Overpayment means support payments that are distributed, disbursed or paid in error.

Partial termination of assignment means current support collections, future arrears, and potentially a portion of past arrears collections will go to the former ADC (TANF) recipient, while arrearage collections (overdue support) still go to the state to reimburse a debt owed to the state.

Paternity establishment means the legal process to determine the parentage of a child born out of wedlock.

Payee means the person or organization in whose name support money is paid.

Payment plan means a written agreement, entered in to by the county/authorized attorney or the Department and an obligor, by which the parties agree to terms to address the payment of past-due support.

Payment record means the official record of payments made on a support order.

Payor means the person ordered to pay support. For purposes of administrative attachment, payor includes a person, partnership, limited partnership, limited liability partnership, limited liability company, corporation, or other entity doing business or authorized to do business in the State of Nebraska, including a financial institution, or a department or an agency of state, county, or city government.

Permanently assigned arrearages means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls:

1. Which are or were assigned under an assignment of support rights in effect on September 30, 1997; and
2. Which accrued under an assignment entered into on or after October 1, 1997, while a family is receiving assistance.

Personal Property means any thing subject to ownership that does not involve land or an interest in land.

Petition means a formal written request filed with a court for a certain action to be taken.

Petitioner means the person seeking an order judgement or decree.

Plaintiff means the person seeking an order, judgement or decree.

Pre-Offset means the time period between the submission of a court ordered arrears qualified for the Tax Refund Intercept program and the time the tax refund is actually intercepted.

Presumption means an assumption of fact resulting from a rule of law, which requires that the fact be assumed unless established otherwise.

Presumption of Paternity means a rule of law in which evidence of a man's paternity (e.g. voluntary acknowledgement, genetic test results) creates a presumption that the man is the father of a child.

Pro Rata Basis means a federally mandated requirement to divide, share or distribute support collections proportionately among all appropriate orders.

Procedure means the action necessary to implement child support regulations.

Process means a systematic series of actions to achieve a specific purpose. Location, establishment of paternity, mandatory income withholding are all considered child support processes.

Public assistance means benefits granted from state or federal programs to aid eligible recipients.

Putative father (See definition of "alleged father")

Real property means land, and all buildings, fixtures, and improvements affixed to land.

Rebuttable Presumption means a presumption that can be overturned if sufficient proof is presented.

Recipient means an individual or an organization that is receiving or has received public assistance and/or child support services.

Record means the collection of all the information that is known about an individual.

Registration means a legal procedure which extends the jurisdiction in one state to the jurisdiction of another state. For child support purposes, this is referred to as the registration of a foreign judgement.

Reimbursement means the repayment of support accrued or money distributed incorrectly.

Relevant licensing authority means a board, bureau, commission, committee, department, political subdivision, or other public or private entity that is authorized under the laws of the State of Nebraska to grant, issue, or renew a professional, occupational, or recreational licenses.

Release of lien means the removal of a claim against property which claim had been placed as security against the payment of a support debt.

Remittance coupon means a document designed to accompany a support payment that will assist in associating the payment to the obligor.

Reopened case means a case reopened for ADC and/or medical assistance within two years of the last case closing date.

Request date means the date the applicant request services.

Respondent means the person who must respond to a petition filed in court.

Responding jurisdiction means the court or administrative agency with jurisdiction over a non-custodial parent or child support order on which an initiating state has requested action.

Responding state means a jurisdiction in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating jurisdiction under the Uniform Interstate Family Support Act (UIFSA) or a law or procedure substantially similar to that Act.

Retroactive payment means a support payment made for a previous month.

Review and modification means a process in which the IV-D agency:

1. Obtains current financial information from both parties in a support case;
2. Evaluates the information to decide if a support order needs to be adjusted; and
3. If appropriate, takes steps to increase or decrease support or to add medical coverage.

Sanction means a penalty imposed against a recipient of public assistance for failure to cooperate with the IV-D agency.

Satisfaction means the payment or discharge of an obligation.

Service of process means the act of delivering a writ or summons to a party for the purpose of obtaining jurisdiction over that party

Spousal support means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with the child for whom the individual also owes support.

State means any state of the United States, and any commonwealth, territory, or possession of the United States or the District of Columbia.

State debt means the amount of money owed to the state at the time of partial termination of an assignment of rights.

State Disbursement Unit (SDU) means a single entity in each state where support payments are received, receipted, distributed and disbursed. The SDU may be an agency of state government or a vendor under contract with the State's IV-D agency.

State Parent Locator Services (SPLS) means the service operated by Child Support Enforcement to locate responsible persons in order to establish paternity and enforce support obligations or for making or enforcing of visitation and custody orders. This service may also be used in parental kidnapping cases.

State Ward Fund means the account as described in Neb. Rev. Statute §43-907.

Statute means a law passed by a legislative body.

Statute of limitations means a law which prescribes the time period within which certain described causes of action may be filed.

Subpoena means a writ or order commanding an individual's appearance at a particular place and time to give testimony.

Summons means an instrument used to initiate a civil action or special proceeding and is a means of acquiring jurisdiction over a party.

Support means a monetary payment used to provide necessary shelter, food, clothing, care, medical coverage, medical attention, education expenses, funeral expenses, or any other reasonable and necessary expenses. Support can also include interest as provided by law.

Support order means an order, decree, or judgement for child, spousal, or medical support or for payment of any arrearage of support issued by a court or agency of competent jurisdiction.

Targeted payment means the allocation of a payment determined by a court order or administrative decision.

Tax offset (See definition of "Offset").

Tax year means the calendar year in which the payor was submitted for the tax refund intercept program.

Temporarily assigned arrearages means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls, which accrued prior to the family receiving assistance and which were assigned to the state after September 30, 1997. These arrearages are not permanently assigned and the temporary assignment will expire when the family leaves the assistance program or on October 1, 2000, whichever date is later.

Temporary support order means a support order intended to be for an interim period of time prior to the establishment of a final order.

Termination of parental rights means breaking the legal tie between a parent and child which ends a parent's rights and responsibilities regarding the child. When parental rights are terminated, the parent is no longer obligated for the on going support of the child.

Third Party Liability Unit (TPLU) means the subdivision of NDHHS which administers the program that pays the difference between the amount of the medical bill and the amount the insurance company has paid. A case is referred to the TPLU only when a public assistance recipient has medical insurance in addition to coverage provided by the public assistance program.

Timely notice means a notice of case action, dated and mailed in compliance with the time frames specified by the applicable statute, regulation, or court rule.

Title XIX means the section of the Social Security law which authorizes and regulates the Medicaid program.

Unassigned during assistance arrearages means all previously assigned arrearages which exceed the cumulative amount of unreimbursed assistance when the family leaves the assistance program and which accrued during the receipt of assistance.

Unassigned pre-assistance arrearage means all previously assigned arrearages which exceed the cumulative amount of unreimbursed assistance when the family leaves the assistance program and which accrued prior to the receipt of assistance.

Unemployment insurance benefits (UIB) means temporary benefits given to a person who has lost his or her employment. The Department of Labor administers UIB.

Uniform Interstate Family Support Act (UIFSA) means the federally required state laws which provide mechanisms for establishing and enforcing child support.

Uniform Reciprocal Enforcement of Support Act (URESA) means the previous federally required state laws which provided the mechanism for establishing, enforcing and modifying support obligations in interstate cases. Enacted in 1950, they have been replaced by UIFSA, although some provisions remain in effect in some states.

Unreimbursed assistance (URA) means the cumulative amount of ADC benefits or foster care payments made by the State since February 1976, minus any support collections received and retained by the Department.

Wage Withholding (See definition of "Income withholding")

Willful failure means the knowing and intentional violation of a legal duty.

Worker's compensation means a benefit issued for work related injuries to an eligible employee.

## CHAPTER 8-000 REVIEW AND MODIFICATION OF CHILD SUPPORT ORDERS

This chapter outlines the role of Child Support Enforcement in the review and modification of child support orders.

8-001 NOTICE of RIGHT to REQUEST a REVIEW: At least once every three years, Child Support Enforcement will notify each party subject to a IV-D child support order in Nebraska of the right to request a review of the order and the appropriate place and manner in which the request should be made.

8-002 CRITERIA for a REVIEW: All Nebraska IV-D court orders or foreign orders registered under UIFSA or RURESA in Nebraska are eligible for a review for possible modification of the child support amount and inclusion of health insurance if the following criteria are met:

1. The order is for current support;
2. The order is an active Nebraska order;
3. Nebraska maintains continuing exclusive jurisdiction under UIFSA or is the proper state to acquire continuing exclusive jurisdiction under UIFSA for the support order;
4. The current order for support is at least three years old;
5. At least one party resides in Nebraska;
6. The location of all parties involved is known;
7. The non-custodial party is not institutionalized or incarcerated;
- ~~8. In cases involving one of the parties being incarcerated, the incarcerated party must have been incarcerated for a year or more on charges other than criminal nonsupport and does not have documented history of willfully or neglectfully failing to pay support in accordance with Neb. Rev. Stat. § 43-512;~~
- ~~9.8.~~ The order is not a tribal order;
- ~~10.9.~~ The order has not been reviewed by Child Support Enforcement in the last three years, except:
  - a. An order may be reviewed after one year if it was not referred for a modification because of financial circumstances lasting for the time period stated in 466 NAC 8-007, number 1; or
  - b. The requesting party demonstrates a substantial change in circumstances that has lasted for the time period stated in 466 NAC 8-007, number 1;
- ~~11.10.~~ The youngest child in the order will not emancipate within the next 12 months;
- ~~12.11.~~ The order is not registered for income withholding only; and
- ~~13.12.~~ The order does not require a change in custody to effectuate the modification of support.

8-002.01 Review Denied: If a party requests a review and if at any time during the review process the review criteria are not met, the requesting party will be notified that the order is no longer eligible for review. Once denied, the request for review and modification is considered closed.



8-002.02 Good Cause: Child Support Enforcement will not conduct a review of an order in cases where the support has been assigned to the State and Child Support Enforcement has determined pursuant to a good cause exemption it would not be in the best interest of the child(ren) or custodial party to pursue a modification. See 466 NAC 3-003.

8-003 TIMEFRAMES for REVIEW and MODIFICATION: Within 180 calendar days of the date that the Central Office of Child Support Enforcement receives a completed application for review and modification, or location of the non-requesting party, which ever occurs later, Child Support Enforcement will:

1. Conduct a review of the order and modify the order; or
2. Determine that the order should not be adjusted as specified in 466 NAC 8.

An application for review and modification is considered complete when the application has been fully completed and signed by the requesting party, and is accompanied by all required supporting documentation. See 466 NAC 8-005.03.

8-004 INITIATION of REVIEW: A review may be initiated by Child Support Enforcement, any other State IV-D agency, or either party subject to the order.

8-004.01 Child Support Enforcement Initiated Review for TANF or IV-E Foster Care: The Central Office of Child Support Enforcement will initiate the review of a support order meeting the review criteria listed in 466 NAC 8-002 once every three years when:

1. Child support is assigned to the State; and/or
2. IV-E Foster Care services are being provided.

The Central Office of Child Support Enforcement will determine within 15 calendar days of initiating a review on a case whether a review should be conducted.

8-004.01A Child Support Enforcement Initiated Review for Medical Support Cases: The Central Office of Child Support Enforcement will initiate the review of a support order meeting the review criteria listed in 466 NAC 8-002 when medical support is assigned to the State and health insurance is not already included in the order for support.

The Central Office of Child Support Enforcement will determine within 15 calendar days of initiating a review on a case whether a review should be conducted.

8-004.01B Child Support Enforcement Initiated Review for Interstate Cases: The Central Office of Child Support Enforcement will initiate the review of a support order meeting the review criteria listed in 466 NAC 8-002 when Central Registry received a request for review from another state IV-D agency.

The Central Office of Child Support Enforcement will determine within 15 calendar days of initiating a review on a case whether a review should be conducted.

8-004.02 Individual Request for Review: A party may request a review of his/her order for possible modification if the order meets the review criteria in 466 NAC 8-002 and the request for review:

1. Is for the modification of child support, or to include health insurance; and
2. Does not include a request to modify spousal support, custody, or visitation rights.

When a party requests a review of his/her order, Child Support Enforcement will send an application for review and modification to the party. The requesting party must complete and return the application before Child Support Enforcement can determine if a review should be conducted.

8-004.02A Receipt of Completed Application: Child Support Enforcement will determine within 15 calendar days of receipt of a completed review and modification application whether the request meets the review criteria stated in this chapter.

8-004.02B Withdrawal of Request for Review: A review may be terminated by a written request from the party who requested the review if:

1. The request is made before the review determination is sent; and
2. The non-requesting party, after receiving the written notice of his/her right to request that the review continue, does not object to terminating the review.

## 8-005 THE REVIEW:

8-005.01 Failure to Locate All Parties in Standing: If the location of all parties of standing is not known, Child Support Enforcement will attempt location. If Child Support Enforcement cannot locate the interested parties, the request will be denied.

8-005.02 Notice of Intent to Review: If it is determined that a review will be conducted, Child Support Enforcement will send all parties subject to the order, at their last known mailing address, a notice of intent to review for modification. The review must begin 30 calendar days from the date of the notice of intent to review.

8-005.03 Information Needed for a Review: All parties must submit financial information and supporting documentation and information about the location of other parties and the financial circumstances of other parties, if known. Supporting financial documentation may include:

1. Two most recent years' tax returns with all IRS schedules;
2. W-2 statements;
3. IRS 1099 forms;
4. Pay stubs or other verification of all sources of income from the last three months;
5. Health insurance information; and
6. Other items deemed necessary under the Nebraska Child Support Guidelines.

All parties in a Child Support Enforcement initiated review and the non-requesting party in a requested review must return financial information and supporting documentation within 30 calendar days of the date of the notice of intent to review.

8-005.03A Request for Additional Information: If Child Support Enforcement requests additional information, the parties must return the requested information postmarked within 15 calendar days of the date of the request.

8-005.03B Disclosure of Financial Information: Any financial or health insurance information provided to Child Support Enforcement, the county attorney, or the authorized attorney by either party, may be disclosed to the other parties to the case or to the court.

8-006 CALCULATION: Child Support Enforcement will calculate the support obligation in accordance with the Nebraska Child Support Guidelines using the financial information available for the parties involved. Child Support Enforcement may utilize all available resources to verify or locate financial information should either party fail to return financial information and/or documentation.

8-007 CRITERIA for REFERRAL to COUNTY/ AUTHORIZED ATTORNEY: An order must be referred to the county or authorized attorney for filing an application for modification when:

1. The newly calculated support and current support obligations vary by the percentage determined by the Nebraska Supreme Court, and the variance is due to financial circumstances which have lasted at least three months and can be reasonably expected to last an additional six months; or
2. Health insurance is available to the noncustodial party through an employer or union and the children are not covered by health insurance.

8-008 REVIEW DETERMINATION:

8-008.01 Notice of Review Determination: Central Office will send all parties a notice of the review determination. This notice must include the notice of the parties' right to submit a written request for a reconsideration of the determination.

8-008.02 Request for Reconsideration of the Determination: Either party may request a reconsideration of the review determination. This request must be postmarked within 30 calendar days of the date of the determination notice. The request must include the reasons for the request as well as written evidence to support the request. Upon completion of the reconsideration, the parties must be sent a written notice of the second review determination.

8-009 FILING of APPLICATION for MODIFICATION: Within 15 calendar days of receiving a referral, the county/authorized attorney must file an application for modification unless she/he determines in the exercise of independent professional judgment that the:

1. Variation from the guidelines is based on a material misrepresentation of fact concerning the financial information;
2. Variation from the guidelines is due to a voluntary reduction in monthly net income; or
3. The incarcerated non-custodial party has a documented history of willfully or neglectfully failing to pay support or;
4. Amount of the order and/or the availability of health insurance is considered with all the other undisputed facts in the case, the criteria in 466 NAC 8-007 have not been met.

8-009.01 Inadequate Financial Information:

8-009.01A One Party: When one of the parties fails to return the information needed for review in 466 NAC 8-005.03 or if the information received is incomplete, a rebuttable presumption is created. A referral sent to the county/authorized attorney creates a rebuttable presumption of a material change in circumstances of one of the parties as follows if:

1. There is inadequate financial information regarding the non-custodial party, the child support obligation will be increased at least ten percent; or
2. There is inadequate financial information regarding the custodial party, the child support obligation will be decreased at least ten percent.

8-009.01B All Parties: If all parties fail to return the information needed for review in 466 NAC 8-005.03 or if the information received is incomplete, a determination will be made based on the information available. If the case meets the criteria in 466 NAC 8-007, the case must be referred to the county/authorized attorney for filing an application for modification.

8-010 INCOME WITHHOLDING with MODIFIED ORDERS: If an application is filed for modification and the support order does not contain a provision for income withholding, the county or authorized attorney must request that the modified order contain such a provision.

8-011 INTERSTATE REVIEW and MODIFICATIONS:

8-011.01 Nebraska as Initiating State: When a party requests the review of an order in an interstate case, Child Support Enforcement will determine in what state a review should be conducted.

8-011.01A Request to Other State: Child Support Enforcement will refer the case to the interstate central registry in the responding state for action within 20 calendar days of

1. Determining that it is appropriate to request a review in another state; and
2. Receiving the information necessary to process the case.

8-011.01B Notification to the Nebraska Party: Within ten calendar days of receipt of any notice issued by the responding state in connection with the review and modification of an order, Child Support Enforcement will send the party in Nebraska, a copy of any such notice.

8-011.02 Nebraska as Responding State: Within ten working days of receipt of an interstate request for review and modification the Interstate Central Registry must forward the request to the Child Support Enforcement (CSE) Central Office Review and Modification Unit. Within 15 calendar days of receipt of a request from the Interstate Central Registry, the CSE Central Office Review and Modification Unit will determine whether a review should be conducted.

8-011.02A Interstate Request Denied: When the CSE Central Office Review and Modification Unit determines that a review should not be conducted a Denial Letter will be sent to the initiating state advising them of the reason for the denial.

8-011.02B Interstate Request Granted: When the CSE Central Office Review and Modification Unit determines that a review should be conducted Child Support Enforcement staff will:

1. Send a notice to each party that a review will be conducted,
2. Conduct a review;
3. Provide notice to the parties of the right to challenge the proposed modification or other determination; and
4. Modify the order or determine that the order must not be modified.

All of these actions must be completed within the timeframes stated in 466 NAC 8-003.

8-011.02C Additional Information: Central Office will contact the initiating state if additional information about the requesting party is needed in order to conduct the review. However, if additional information regarding the non-requesting party is needed, Central Office will contact the non-requesting party directly.

8-011.02D Notification to the Party in the Initiating State: Child Support Enforcement will send any notices of the review to the party in the initiating state through the appropriate agency in the initiating state.

8-011.03 Governing Laws: The applicable laws and procedures of the state conducting the review and modification will govern the outcome of the review and modification process. However, if the modification is not conducted in the state that issued the original support order, the tribunal of the state conducting the modification may not modify any final, non-modifiable aspect of the original order.

## CHAPTER 9-000 ENFORCEMENT OF SUPPORT ORDERS

This chapter contains information regarding the tools or methods or techniques available for the enforcement of support orders.

9-001 TIMEFRAMES FOR ENFORCEMENT: When a delinquency or other support-related noncompliance is identified or the non-custodial party is located, whichever is later, Child Support Enforcement must initiate enforcement action within no more than:

1. 30 calendar days if service of process is not needed; or
2. 60 calendar days if service of process is needed.

9-002 ADMINISTRATIVE ATTACHMENT: Neb. Rev. Stat. §§43-3333 to 43-3339, allow for administrative attachment of personal assets of an obligor held by a payor or held by a financial institution for the collection of unpaid support from obligors who are not in compliance with support orders.

9-002.01 Criteria for Administrative Attachment: The property of an obligor with a IV-D support obligation may be subject to administrative attachment:

1. If the obligor is delinquent on a support order in an amount equal to the support due and payable for more than a three-month period of time; or
2. Upon request of the state agency of another state that administers Title IV-D of the Federal Social Security Act.

9-002.02 Verification of Applicability of Administrative Attachment: The Department will make reasonable efforts to verify that an obligor in a case receiving IV-D services is subject to administrative attachment.

9-002.03 Notice of Arrearage: If the Department determines to seize an obligor's property, the Department will send a written notice of arrearage to the obligor by first-class mail.

9-002.03A Request for Administrative Hearing: An obligor receiving a notice of arrearage may send a written request for a hearing to the Department of Health and Human Services. The request must be postmarked within 20 days after the date the notice of arrearage is mailed. The administrative hearing request must be based upon a mistake of fact. A mistake of fact is:

1. An error in the amount of the arrearage; or
2. An error in the identity of the obligor.

If the request is not postmarked within 20 days after the date the notice of arrearage is mailed, or the request is not based upon a mistake of fact, the Department will deny the administrative hearing request. If the obligor's request for administrative hearing is proper, the Department will provide an opportunity for a hearing and the administrative attachment process must be stayed until the administrative appeal process is completed.

9-002.03A1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-002.03A2 Hearing Date: The Department will provide an opportunity for a hearing within 15 calendar days after receipt of a proper written request.

9-002.03A3 Hearing Results: The Department will notify the obligor and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-002.03B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-002.04 Order to Withhold and Deliver: The Department may send a payor an order to withhold and deliver specifically identified property of any kind due, owing, or belonging to an obligor if:

1. The Department has reason to and does believe that a payor has property in its possession which is due, owing, or belonging to an obligor;
2. Payment on a support order is in arrears an amount in excess of the support due for a three-month period of time;
3. The Department sent a notice of arrearage to the obligor at least 30 days prior to sending the notice to withhold and deliver; and
4. The obligor did not request a hearing after receiving the notice of arrearage or if after a hearing the Department determined:
  - a. An arrearage did exist; or
  - b. There was no mistake of fact.

9-002.04A Payor Duties: When a payor receives an order to withhold and deliver the payor must:

1. Hold the property subject to the order to the extent of the amount of the arrearage stated in the order until the payor receives further notice from the Department;
2. Within 5 business days of receiving the order:
  - a. Answer any questions posed to the payor in the order;
  - b. Supply the name and address of any person(s) that has an ownership interest in the property sought to be reached; and
  - c. Return such information to the Department; and
3. Upon further notice from the Department, deliver any property which may be subject to the order to the court or agency designated in the order, or release such property or portion thereof.

9-002.04B Fee for Processing an Order to Withhold and Deliver: A payor that is a financial institution may deduct and retain a processing fee, not to exceed ten dollars, from any amounts turned over to the Department. This processing fee must not be credited to the obligor's arrearage total.

9-002.04C Failure or Refusal of the Payor to Withhold and Deliver: If a payor fails or refuses to withhold or deliver property subject to an order to withhold and deliver, unless the payor can show cause as to why the property was not withheld or delivered, the court which issued or registered the support order may enter a judgment for the lesser of:

1. The amount of the arrearages stated in the order to withhold and deliver; or
2. The amount of the property or credits of the obligor in the possession or under the control of the payor at the time the order to withhold and deliver was received.

9-002.04D Discharge of the Payor: If a payor complies with an order to withhold and deliver the payor is discharged of its liability to an obligor or beneficiary with regard to the portion of the obligor's property withheld or delivered. In addition, the payor is discharged as to any property in its possession or under its control that is not the property of the obligor.

9-002.04E Payor's Release from Liability: A payor is not liable to the Department or any individual for:

1. Responding to an order to withhold and deliver;
2. Holding, refusing to release to the obligor, or delivering any property of an obligor in compliance with an order to withhold and deliver; or
3. Any other action taken in good faith to comply with the requirements of Neb. Rev. Stat. §§ 43-3328 to 43-3339, regardless of whether such action was specifically authorized or described by such sections.

9-002.04F Priority of an Order to Withhold and Deliver: An order to withhold and deliver has the same priority as a garnishment for the support of a person pursuant to Neb. Rev. Stat. § 25-1056(4).

9-002.05 Notice of Order to Withhold and Deliver: Within five days after the issuance of an order to withhold and deliver, the Department will send written notice to the obligor by first-class mail.

9-002.05A Request for Administrative Hearing: An obligor may request a hearing to contest a mistake of fact by sending a written request to the Department within seven days after the date of the notice of order to withhold and deliver. If the request is not postmarked within seven days of the date the notice of order to withhold and deliver, or the request is not based upon a mistake of fact, the Department will deny the administrative hearing request. If the obligor's request for administrative hearing is proper, the Department will provide an opportunity for a hearing and the administrative attachment process must be stayed until the administrative appeal process is completed.



9-002.05A1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-002.05A2 Hearing Date: The Department will provide an opportunity for a hearing within 10 days after receipt of a proper written request.

9-002.05A3 Hearing Results: The Department will notify the obligor and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-002.05B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-002.06 Notice to Other Persons With an Ownership Interest: Upon receiving information from a payor that any other person(s) has or may claim an ownership interest in any property sought to be reached, the Department will send written notice to such person(s) by certified mail, return receipt requested.

9-002.06A Request for Administrative Hearing: Any person claiming an ownership interest in any property sought to be reached may request a hearing to establish that the property or any portion of the property is not the obligor's by sending a written request to the Department within 15 days after the date of the notice to other persons with an ownership interest. If the request is not postmarked within 15 days after the date of the notice to other persons with an ownership interest, the Department will deny the administrative hearing request. If the request for administrative hearing is proper, the Department will provide an opportunity for a hearing and the administrative attachment process must be stayed until the administrative appeal process is completed.

9-002.06A1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-002.06A2 Hearing Date: The Department will provide an opportunity for a hearing within 15 calendar days after receipt of a proper written request.

9-002.06A3 Hearing Results: The Department will notify any person claiming an ownership interest in any property sought to be reached and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-002.06B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-003 ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES (AEI): See 466 NAC 10-000.

9-004 ADMINISTRATIVE OFFSET: See 466 NAC 9-014.

9-005 ADMINISTRATIVE SUBPOENA: State and Federal laws allow for an administrative subpoena to compel the production of certain information relevant to establishing paternity or establishing, modifying, or enforcing a support order, without the necessity of obtaining an order from any other judicial or administrative tribunal.

9-005.01 Criteria for Administrative Subpoena: The Department may issue an administrative subpoena to compel the following:

1. Genetic testing of an individual relevant to establishing paternity;
2. Production of information including, but not limited to, the name and address of the individual, a listing of financial assets and liabilities from public or private entities, and other relevant financial records; and
3. Access to information in records of state or local agencies, including state and local tax and revenue records, titles to real and personal property, employment records, and records concerning the ownership and control of business entities.

9-005.02 Failure or Refusal to Comply: If a person named in an administrative subpoena fails or refuses to obey the subpoena, the Department may apply to a court of competent jurisdiction for an order directing such person to comply with the subpoena. Failure to obey this order may be punished as contempt of court, which may result in imprisonment.

9-005.02A Request for Administrative Hearing: Any person refusing to comply with the subpoena may request a hearing to establish that the subpoena should not be complied with by sending a written request to the Department within 15 days after the date the subpoena was issued. If the request is not postmarked within 15 days after the date the subpoena was issued, the Department will deny the administrative hearing request. If the request for administrative hearing is proper, the Department will provide an opportunity for a hearing and the administrative subpoena process must be stayed until the administrative appeal process is completed.

9-005.02A1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-005.02A2 Hearing Date: The Department will provide an opportunity for a hearing within 15 calendar days after receipt of a proper written request.

9-005.02A3 Hearing Results: The Department will notify any person refusing to comply with an administrative subpoena and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-005.02B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-005.03 Confidentiality: All information acquired pursuant to an administrative subpoena is confidential and must not be disclosed or released except to other agencies that have a legitimate official interest in the information for carrying out the purposes of this section.

9-005.04 Interstate Subpoena: See 466 NAC 10-000.

9-006 BANKRUPTCY: If a non-custodial party files for protection under the Bankruptcy Code, the Department may be notified as a 'creditor', especially if there has been an assignment to the state. Normally, child support obligations and arrears are not dischargeable in bankruptcy. However, the use and timing of enforcement methods will be affected, depending on the type of bankruptcy filing involved.

9-006.01 Types of Bankruptcy Filings: The different types of bankruptcies are named for the chapters of the Bankruptcy Code that govern the specific types. The four main categories are:

1. Chapter 7 involves a liquidation of the debtor's non-exempt assets where creditors are then paid from the proceeds on a pro rata basis;
2. Chapter 11 applies to business reorganizations;
3. Chapter 12 is similar to Chapter 11 for unincorporated farms and ranches; and
4. Chapter 13 involves a wage-earner plan, whereby the debtor's disposable income after expenses is collected by the bankruptcy trustee and distributed to creditors on a pro rata basis over a period of time, usually five years.

9-006.02 Notice of Bankruptcy Proceedings: The Department may receive notice of bankruptcy proceedings filed by a non-custodial party. A written notice may be sent to the Department by the bankruptcy court or by the trustee. Other methods of notification include:

1. The bankruptcy notice is sent to the county/authorized attorney;
2. The bankruptcy notice is sent to the Nebraska Attorney General's office;
3. The bankruptcy notice is sent to the Department by the attorney of record for either party;  
or
4. Either party informs the child support worker or the county/authorized attorney.

Regardless of the initial point of contact, the Department and the county/authorized attorney must be provided copies of any written bankruptcy notice.

9-006.03 Effect of Bankruptcy Filing on Enforcement Actions

9-006.03A Automatic Stay: When a bankruptcy petition is filed, most creditor activities directed at the debtor and/or the debtor's assets is automatically stayed. Actions taken in violation of the automatic stay are void or voidable, and may be punished by fine or by contempt action. There are two exceptions to the automatic stay that relate to support obligations:

1. Commencement or continuation of an action to establish paternity or to establish or modify an order for support; and
2. Collection of support from property which is not property of the bankruptcy estate.

In Chapter 7 cases, assets and income acquired after the bankruptcy filing date are not protected by the automatic stay. In Chapter 13 cases, post-filing earnings are covered by the automatic stay.

Once the automatic stay goes into effect, enforcement actions must be reviewed. The Bankruptcy Code permits income withholding, license suspension, consumer credit reporting, and the interception of tax refund without first obtaining relief from the automatic stay. In order to undertake any other enforcement actions, the county/authorized attorney must file a motion for relief from the automatic stay with the Bankruptcy Court. The filing fee for bankruptcy motions may be waived for "child support creditors and their representatives."

9-006.03B Filing Proof of Claim: A proof of claim may be filed with the Bankruptcy Court for arrearages and interest. Child support arrears are not dischargeable. However, claims for support obligations are entitled to priority status, if there are assets available to satisfy claims.

9-006.03C Objection to Chapter 13 Plan: A county/authorized attorney may object to a payment plan proposed in a Chapter 13-bankruptcy case. A Chapter 13 plan must be "proposed in good faith". Factors included in a determination of good faith include, but are not limited to, the following:

1. A plan proposing to pay less than 100% of support arrears or a current support amount that is not in accord with the amount specified in the support order is not made in good faith;
2. A plan which is proposed solely to delay the collection of support constitutes bad faith;
3. A plan that attempts to circumvent or relitigate domestic relations issues that have been previously decided by a state court is not made in good faith; and
4. A plan that proposes to distribute under the plan an amount that is less than a support creditor would receive under a Chapter 7 liquidation.

9-007 CONSUMER CREDIT REPORTING: The Department may submit to consumer credit reporting agencies IV-D support orders with a total delinquency of more than \$500.

9-007.01 Advance Notice to the Non-custodial Party: The Department will send a one-time advance notice to the non-custodial party regarding its intent to submit his/her support order to consumer credit reporting agencies. The advance notice must include the:

1. County where the support order originated;
2. Support order number;
3. Date the amount was reported delinquent;
4. Total dollar amount to be submitted;
5. Delinquent amount by judgment type;
6. Notice that the non-custodial party has 30 days to reduce the arrears to below \$500 to avoid submittal to consumer credit reporting agencies;
7. Non-custodial party's right to request an administrative review; and
8. Criteria a case must meet to be eligible for review.

9-007.02 Request for Administrative Review: If the non-custodial party believes there has been a mistake of fact that would preclude submittal to the consumer credit reporting agencies, the non-custodial party must request an administrative review. The request must be in writing and postmarked within 15 calendar days of the date of the advance notice, and be based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party; or
2. The arrearage amount is \$500 or less.

9-007.03 Conducting the Administrative Review: Child Support Enforcement Central Office must review the pertinent facts of the case to determine if the non-custodial party will be submitted to consumer credit reporting agencies. The Department will notify the non-custodial party of its findings within 30 calendar days of the date of the request for an administrative review.

9-007.03A Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-007.03B Request for an Administrative Hearing: The non-custodial party may request an administrative hearing to appeal the administrative review finding. The non-custodial party must send a written request for an administrative hearing to the Department within 15 calendar days of the date of the administrative review finding.

If the request is not postmarked within 15 calendar days of the date of the administrative review finding, the Department will deny the request for an administrative hearing.

9-007.04 Submittal Process Stayed: The Department will not submit a support order to consumer credit reporting agencies pending the outcome of the administrative review and administrative hearing.

9-007.05 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-007.06 Hearing Date: The hearing must take place within 30 calendar days of the date of the receipt of the hearing request.

9-007.07 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-007.08 Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-007.09 Information Reported to Consumer Credit Reporting Agencies: The Department will submit the following non-custodial party's information to consumer credit reporting agencies:

1. Name;
2. Address;
3. Social Security number;
4. Support order number;
5. Delinquent support amount; and
6. Monthly support obligation.

This information is updated on a monthly basis. An entry on a credit report remains for seven years following the last transaction.

9-007.10 Dispute to Consumer Credit Reporting Agencies: The non-custodial party may file a dispute with a consumer credit reporting agency if she/he does not agree with the submittal of his/her account to consumer credit reporting agencies. Upon notification from a consumer credit reporting agency that the non-custodial party disputes the submittal, the Department will review the non-custodial party's account to ensure it meets submittal criteria. Upon completion of the review, the Department will notify the consumer credit reporting agencies to correct or delete a support order submitted in error.

9-008 INCOME WITHHOLDING: Income withholding is the primary tool for enforcing support obligations. Federal regulations require the Department to use income withholding. The amount withheld may not exceed the maximum amount permitted by the Consumer Credit Protection Act.

9-008.01 Criteria for Income Withholding: The income of an individual with a support obligation arising from a support order that has been issued or modified on or after September 6, 1991 must be subject to immediate income withholding, and the court must require income withholding in the support order, unless:

1. One party demonstrates to the court that there is good cause not to require income withholding; or
2. A written agreement between the parties providing a suitable alternative arrangement is incorporated into the order. If there is an assignment of support to the state, the state must be a party to the written agreement.

The income of anyone with a support obligation that does not contain provisions for immediate income withholding will be subject to initiated income withholding under the following conditions:

1. If there is an arrearage of at least one month's support amount; or
2. Regardless of whether payments are delinquent, on the earliest of the date:
  - a. The non-custodial party requests income withholding;
  - b. The custodial party requests income withholding in writing;
  - c. The Department of Health and Human Services; or
  - d. Another State IV-D agency requests income withholding.

9-008.02 Notice of Intent to Withhold Income: Upon receiving certification or notice of a delinquency in support payments for a support order that does not contain provisions for immediate income withholding, Child Support Enforcement must send the non-custodial party a notice of its intent to withhold income. The notice is not required if:

1. The non-custodial party previously received a notice of intent to withhold income;
2. The non-custodial party requests income withholding; or
3. Immediate income withholding is included in the order.

9-008.02A Content of the Notice of Intent: The notice of intent must inform the non-custodial party of the following:

1. Income withholding will become effective within 15 calendar days of the date of the notice;
2. Income withholding will continue with any subsequent employer or payor of income;
3. The amount of support owed;
4. The amount of income to be withheld; and
5. The right to appeal and the appealable issues.

9-008.02B Mailing the Notice of Intent: The notice of intent must be mailed by certified mail to the last known address of the non-custodial party.

9-008.03 Administrative Hearing: A non-custodial party receiving a notice of intent to withhold income may request an administrative hearing, pursuant to the Administrative Procedure Act, to appeal income withholding based on specific language in the court order that exempts the non-custodial party from income withholding, or on a mistake of fact. A mistake of fact is:

1. An error in the amount of current or overdue support;
2. An error in the identity of the non-custodial party; or
3. The amount to be withheld is incorrect, for example exceeds the maximum amount permitted under the Consumer Credit Protection Act.

The non-custodial party may send a written request for a hearing to the Department. The request must be postmarked within 15 calendar days of the date of the notice of intent. If the request is not postmarked within 15 calendar days of the date of the notice, or the appeal request is not based on a mistake of fact, the Department will deny the appeal request.

9-008.03A Income Withholding Suspended: Child Support Enforcement must not implement income withholding pending the outcome of the hearing.

9-008.03B Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-008.03C Hearing Date: The hearing must take place within 15 calendar days of the date of the receipt of the hearing request.

9-008.03D Hearing Results: The Department will notify the non-custodial party and the county/authorized attorney of the hearing results within 15 calendar days of the hearing.

9-008.03E Request for Hearing on a Foreign Support Order: If the order is a foreign support order entered under the Income Withholding for Child Support Act, the non-custodial party may send a written request for a hearing to the county/authorized attorney postmarked within 15 calendar days of the date of the notice. The county/authorized attorney must schedule a hearing with the District Court and notify the Department.

9-008.04 Notice to Withhold Income: Child Support Enforcement must notify the employer of the amount of income to withhold based on the identified arrearage and/or child support amount. The amount to be withheld must not exceed the maximum amount permitted under the Consumer Credit Protection Act.

The notice must inform the employer that failure to withhold income as directed will result in the employer becoming liable to pay the certified amount specified in the notice. The notice must also inform the employer that any discrimination, termination, or other disciplinary action taken against the employee as a result of receiving the notice to withhold income will subject the employer to penalties prescribed by law.

9-008.04A Timeframes: In cases that are subject to immediate income withholding, a notice to withhold income must be sent to the non-custodial party's employer within 15 calendar days of the date the support order is received, provided that the employer's address is known at that time. If the employer's address is not known at the time the support order is received, the notice to withhold income must be sent within 15 calendar days of locating the employer. If information regarding new employment for any non-custodial party who is subject to income withholding is reported to the State Directory of New Hires, Child Support Enforcement must send a notice to withhold income to the non-custodial party's employer within two business days.

9-008.04B Employer Compliance: An employer must comply with the terms of the income withholding notice including, but not limited to:

1. The amount and the duration of the withholding; and
2. Maximum amounts to be withheld.

An employer must initiate the income withholding beginning with the next pay period following the date on the withholding notice. An employer must send all amounts withheld for payment of a support obligation to the Nebraska Child Support Payment Center within seven calendar days of the date the amount is withheld. The employer must indicate the following for each amount withheld:

1. The name of the non-custodial party;
2. The SSN of the non-custodial party;
3. The court order number; and
4. The date on which the amount was withheld.



9-008.04C Administrative Fee: Assessment of an additional administrative fee from the obligor's net income may not exceed two dollars and fifty cents in any calendar month.

9-008.04D Effective Date: When support is withheld by an employer in the month when due, and received by the Nebraska Child Support Payment Center in a month other than the month due, the date the payment is taken out of the obligor's wages is determined to be the date of the collection.

9-008.04E Amount of Income to be Withheld: The total amount to be withheld from the non-custodial party's net income is the lesser of either the dollar amount specified in the notice or:

1. 50 percent of the non-custodial party's net income if the non-custodial party has a second family;
2. 55 percent of the non-custodial party's net income if the non-custodial party has a second family and is more than 12 weeks in arrears;
3. 60 percent of the non-custodial party's net income if the non-custodial party does not have a second family;
4. 65 percent of the non-custodial party's net income if the non-custodial party does not have a second family and is more than 12 weeks in arrears; or
5. 90 percent of the non-custodial party's net income if the non-custodial party is incarcerated for criminal nonsupport and is earning income while on work release.

9-008.04F Multiple Support Orders: If the non-custodial party is eligible for income withholding on more than one order and the available income cannot satisfy all orders, the distribution of support must be as follows:

1. Withhold an amount to satisfy the current monthly support obligations:
  - a. If there is not sufficient income available within the limits set by the federal Consumer Credit Protection Act to satisfy all current support obligations, then the amount that is available to be withheld must be distributed across all orders on a pro rata basis; or
  - b. When the income available to be withheld is enough to cover all current support obligations, apply any remaining amount to arrearages. If there is not sufficient income available within the limits set by the federal Consumer Credit Protection Act to satisfy all arrearages, the amount that is available to be withheld must be distributed across all orders on a pro rata basis.

9-008.04G Penalties: An employer who complies with an income withholding order is immune from civil liability with regard to the withholding. An employer who fails to comply with an income withholding order issued is subject to the penalties that may be imposed under Nebraska law, including contempt proceedings and liability for the full certified amount owed.

9-008.05 Termination of Income Withholding: When a support obligation is paid in full, the county/authorized attorney or Child Support Enforcement must send a notice to the employer instructing the employer to terminate the wage withholding.

9-008.06 Withholding of Unemployment Insurance Benefits: A cooperative agreement exists between the Department of Health and Human Services and the Department of Labor for the withholding of unemployment insurance benefits (UIB) in support cases with an income withholding order. The amount withheld may not exceed the maximum amount permitted by the Consumer Credit Protection Act.

9-008.06A Notice of Intent to Withhold Income: After receiving notice of an arrearage in support payments, and a report from Department of Labor that the non-custodial party receives UIB, the Department will send the non-custodial party a notice of its intent to withhold income from UIB. The notice is not required if:

1. The non-custodial party previously received a notice of intent to withhold income;
2. The non-custodial party requests income withholding; or
3. Immediate income withholding is included in the support order.

9-008.06B Request for Administrative Hearing: As is the case with an income withholding directed at the obligor's wages, the obligor has the right to appeal the notice to withhold from UIB, pursuant to the Administrative Procedure Act. See 466 NAC 9-008.03.

9-008.06C Receipt of Intercepted Support Payments: The Department will send an annual receipt of support amounts collected from UIB to the non-custodial party if requested.

9-008.06D Collected Support Payments: The Department of Labor must send all amounts withheld for payment of a support obligation to the Department within ten calendar days of the date the amount is withheld. The Department of Labor must indicate the following for each amount withheld:

1. The name of the non-custodial party;
2. The SSN of the non-custodial party;
3. The court order number; and
4. The date on which the amount was withheld.

9-008.06E Terminating Income Withholding: The Department will notify the Department of Labor when the support obligation is paid in full. Upon notice, the Department of Labor must terminate income withholding of UIB for that order.

9-008.07 Direct Income Withholding: Under UIFSA, an income withholding order issued in one state may be sent directly to the non-custodial party's employer in another state. There is no requirement that a petition be filed or the order be registered in the receiving state. The initiating state may send a request for registration of the order. However, the receiving state may seek to enforce the order through income withholding or other administrative procedures without first registering the order.

9-008.07A Employer Compliance: A Nebraska employer must treat a direct income withholding request received directly from another state in the same manner as if a Nebraska tribunal had issued it. The employer must comply with the terms of the order with regard to:

1. The amount and the duration of the order;
2. Any fees and costs charged by the support enforcement agency; and
3. The address to which the payments must be sent; and

The employer must follow the law of the non-custodial party's principal place of employment regarding:

1. Timeframes for implementation;
2. Fees charged by the employer;
3. Maximum amounts to be withheld;
4. Processing of multiple income withholding orders; and
5. Any contest of the order by the non-custodial party.

9-008.07B Penalties: An employer who complies with a direct income withholding order is immune from civil liability with regard to the withholding. An employer who fails to comply with an income withholding order issued in another state is subject to the penalties that may be imposed under Nebraska law, including contempt proceedings and liability for the full certified amount owed.

#### 9-009 (RESERVED)

9-010 LICENSE SUSPENSION: Nebraska state law provides for the suspension of a professional, occupational, or recreational license or a motor vehicle operator's license in cases where the non-custodial party fails to pay child, spousal, or medical support.

9-010.01 Criteria for License Suspension: A license holder with a IV-D support obligation may be subject to license suspension if the license holder:

1. Is delinquent on a support order in an amount equal to the support due and payable for more than a three-month period of time;
2. Is not in compliance with a payment plan established by a county/authorized attorney, or the Department for payment of past-due support; or
3. Is not in compliance with a payment plan established by a court order for payment of past-due support.

9-010.02 Verification of Applicability of License Suspension: The Department or county/authorized attorney must make reasonable efforts to verify that a license holder in a case receiving IV-D services is subject to license suspension.

9-010.03 Notice to Suspend: If the Department or county/authorized attorney determines to certify a license holder to the appropriate licensing authority, the Department or county/authorized attorney must send a written notice to suspend to the license holder by certified mail to the last-known address of the license holder or to the last-known address of the license holder available to the court.

9-010.04 Contesting License Suspension: Within 30 calendar days after the issuance of the notice to suspend, a license holder receiving such notice may seek either judicial or administrative review.

9-010.04A Direct Judicial Review: The license holder may seek judicial review by filing a petition in the court of competent jurisdiction. It is the responsibility of the license holder to notify the Department that she/he is seeking judicial review. Upon timely receipt of such notice, the Department will stay the license suspension process pending the outcome of the judicial review.

9-010.04B Administrative Review: The license holder receiving a notice to suspend may request an administrative review to contest license suspension by sending a written request to the Department of Health and Human Services. The Department will stay the action to certify for license suspension pending the outcome of the administrative review.

The administrative review request must be based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the license holder; or
2. An error in the determination that the license holder is:
  - a. Delinquent on a support order in an amount equal to the support due and payable for more than a three-month period of time;
  - b. Not in compliance with a payment plan established by a county/authorized attorney or the Department for payment of past-due support; or
  - c. Not in compliance with a payment plan established by a court order for payment of past-due support.

9-010.04B1 Conducting the Administrative Review: Child Support Enforcement must review the pertinent facts of the case to determine if the license holder's referral for license suspension is warranted. If the request for administrative review is not postmarked within 30 calendar days of the date of the notice to suspend, or the request is not based on a mistake of fact, the Department will deny the request.

9-010.04B2 Finding of the Administrative Review: Child Support Enforcement must notify the license holder of its findings within 7 calendar days of the date of the request for an administrative review. The administrative review finding must include the procedures for the license holder to appeal the finding through an administrative hearing.

9-010.04C Request for an Administrative Hearing: To request an administrative hearing, the license holder must send a written request to the Department within 15 calendar days of the date of the administrative review finding. The issues to be determined at the hearing are limited to a mistake of fact as outlined in 466 NAC 9-010.04B. However, the license holder may raise additional issues, including the reasonableness of a payment plan for a support order, to be preserved for appeal to the district court as provided under the Administrative Appeals Act.

The action to certify for license suspension must continue to be stayed until the administrative appeal process is completed.

9-010.04C1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat § 84-901, et seq.

9-010.04C2 Hearing Date: The administrative hearing must be held within 15 days of receiving a proper written request, and must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat § 84-901, et seq.

9-010.04C3 Hearing Results: The Department will notify the license holder of the hearing results within 30 calendar days.

9-010.04D Judicial Review: Within 10 days after issuance of the administrative hearing decision by the Department, the license holder may seek judicial review of the decision by filing a petition in the court in which the support order was issued or registered. The action to certify for license suspension must continue to be stayed until the judicial review process is completed.

9-010.05 Request for Review and Modification: Upon notification by the license holder that a motion or application to modify the order has been made or the license holder requests a review by the Department after receipt of the notice to suspend, the action to certify for license suspension will be stayed until disposition of the review and modification process. See 466 NAC 8-002 for criteria for a review by the Department.

9-010.06 Certification to Suspend License: The Department, county/authorized attorney or court of competent jurisdiction may certify in writing to the relevant licensing authority that a license holder meets the criteria for license suspension listed in 466 NAC 9-010.01 if the license holder did not request an administrative or judicial review, or if the findings of the administrative and/or judicial reviews determine that the license holder meets the criteria for license suspension. A copy of any certification to suspend a license will be sent to the license holder. Certification to the relevant licensing authorities must occur as follows.

9-010.06A Motor Vehicle Operator's License: Certification must be made to the Department of Motor Vehicles for the suspension of the license holder's license to operate a motor vehicle. The Department of Motor Vehicles must not suspend a license holder's commercial driver's license or restricted commercial driver's license. A commercial driver's license or restricted driver's license must be certified pursuant to 466 NAC 9-010.06C.

9-010.06B Recreational License: Ten working days after the date on which the operator's license suspension becomes effective and upon failure of the license holder to come into compliance with his/her support order, certification must be made to the Games and Parks Commission for suspension of a license holder's recreational license(s).

9-010.06C Professional and Occupational Licenses: Ten working days after the date on which the recreational license suspension becomes effective, or if the Games and Parks Commission is not automated, in ten working days after the date on which the motor vehicle operator's license suspension becomes effective and upon failure of the license holder to meet his/her legal obligations to provide support, certification must be made to any relevant licensing authority for suspension of a license holder's professional and occupational licenses.

9-010.07 Suspension of License: Within ten days of certification, the relevant licensing authority must suspend the license holder's operators, professional, occupational, or recreational license, and the license holder's right to renew the suspended license. In the case of a member of the Nebraska State Bar Association whose license has been certified to the Counsel for Discipline of the Nebraska State Bar Association, the Nebraska Supreme Court may suspend the license holder's license to practice law, and may further discipline the license holder pursuant to the Nebraska Supreme Court rules regulating the Nebraska State Bar Association.

9-010.08 Reinstatement of License: When a license holder comes into compliance with his/her support order, the Department, county or authorized attorney must provide the license holder with written confirmation of compliance. It is the license holder's responsibility to present the written confirmation of compliance and any required reinstatement fee to the licensing authority. The license holder must follow the procedures established by the relevant licensing authority for reinstatement of any license that has been suspended pursuant to the Nebraska License Suspension Act.

A license holder who is in violation of a support order may come into compliance by paying all current and past due support, or by paying all current support and making payments in accordance with a payment plan for past due support.

9-010.08A Confirmation to Licensing Authority: If requested by a licensing authority, the Department, or county/authorized attorney may also provide confirmation directly to the relevant licensing authority that the license holder is in compliance with the support order.

9-011 LIENS: A child support judgment in Nebraska automatically creates a lien, that may be filed against real property, or any personal property that is registered with a county office.

9-011.01 Enforcement: Liens arising under this section may be enforced by having the sheriff execute on the property.

9-011.02 Release and Subordination: The custodial party may only release or subordinate the lien as it relates to support owed to the custodial party. In cases where support has been assigned to the state or a state debt exists, a release or subordination of that portion of the lien must be signed by the Department.

9-011.02A Release or Subordination when current: If support order payments are current, a partial or total release or subordination may be accomplished by filing:

- ~~1. A current certified copy of the support order payment history, issued by the Title IV-D Unit, which explicitly recites that all support payments are current; and~~
- ~~2. A partial or total release or subordination document in the county office where the lien is registered. The person desiring the release or subordination must execute a notarized statement, from the judgment creditor, stating that payments are current, then the child support lien can be released or subordinated without court approval. A properly executed notarized release or subordination document reciting that all support payments are current is sufficient evidence that [the payments are in fact current.](#)~~

9-011.02B Release or Subordination when not current: If support order payments are not current, the person desiring the release or subordination may file an application for the relief desired in the court which rendered the original judgment or support order. If the court finds that the application will be granted the court will issue an order for a total or partial release or subordination court approval by motion to the court is necessary. The court will grant the order upon a showing by the judgment debtor that sufficient real or personal property or property interests will remain subject to the lien or will maintain priority over other liens sufficient to cover all support due and which may become due.

9-011.02C Judgment Creditor Refuses to Execute a Release or Subordination: If the judgment creditor refuses to execute a release or subordination the judgment debtor may file an application or motion with the Court for the relief desired. The Court may order the relief sought if the Court finds the release or subordination is not requested for the purpose of avoiding payment and the release will not unduly reduce the security of the judgment creditor.

As a condition, the Court may require posting of a bond with the Clerk of the Court in an amount fixed by the Court, guaranteeing payment of the judgment. For purposes of this section, a current certified copy of support order payment history from the IV-D Unit setting forth that all support payments are current is sufficient evidence that the payments are in fact current and is valid for thirty (30) days after the date of certification.

9-011.02C Current Certified Payment History: ~~For this section, a current certified copy of support order payment history from the Title IV-D Unit showing all support payments are current will be valid for 30 calendar days after the date of certification.~~

9-011.02D Priority of Real Property Mortgages: A mortgage or deed of trust, or any refinancing, renewal, or extension thereof, used to purchase real estate, has priority over a lien for child support.

9-011.03 Duration of Lien: Child support liens are effective until ten years after the latest of the following dates:

1. The date the youngest child becomes of age;
2. The date the youngest child dies; or
3. The date of the most recent execution to enforce the lien.

A child support judgment that ceases to be a lien for any of these reasons cannot be reinstated.

9-011.03A Execution on a Child Support Lien: An execution on a Child Support Lien means an action taken to enforce the underlying judgment. These actions include but are not limited to:

1. Issuance of Income Withholding Forms;
2. License Suspension Actions;
3. Reporting Arrearage Amount to Consumer Credit Reporting Agencies;
4. Issuance of Billing Statements; or
5. Federal or State Tax Offset Actions.

9-011.04 Attachment of Liens on Motor Vehicles: A child support lien against an automobile or mobile home attaches when the lien is noted on the title certificate.

9-012 INTERSTATE LIENS: See 466 NAC 10-005.

9-012.01 Full Faith and Credit: Nebraska courts must give full faith and credit to child support liens being enforced from other states when the party seeking enforcement complies with procedures for filing the lien. Liens arising in other states are entitled to the same priority as liens arising in the State of Nebraska.

9-012.02 Filing Requirements: To file an interstate lien in Nebraska, the state agency or party seeking enforcement must send the following items to the clerk of the district court:

1. A certified copy of the support order and all modifications;
2. A notice of lien that complies with 42 U.S.C. 652(a)(11) and 42 U.S.C. 654(9)(E); and
3. The appropriate filing fee.

Acceptance of these items by the clerk of the district court constitutes entry of the foreign support order, for purposes of enforcing the lien only. Additional filings that would be required to register a foreign judgment under UIFSA are not required for filing an interstate lien.



To file an outgoing interstate lien, the filing requirements of the receiving state must be complied with.

9-013 MILITARY ALLOTMENT: A military allotment is a mechanism for withholding support obligations from military wages, similar to income withholding. There are two types of allotments available for the payment of support:

1. Involuntary; and
2. Voluntary allotments.

9-013.01 Involuntary Allotments: An involuntary allotment may be executed against a military person's pay for support if there is an existing order for support and the service member has failed to make payments as directed in the order. An involuntary allotment may only be executed for the amount of the monthly support obligation. If payments toward any arrearage are sought, there must be an order that specifically requires payment of arrearages.

9-013.02 Voluntary Allotment: A voluntary allotment is strictly a voluntary procedure between the service member and the service itself. The service member instructs the disbursing officer to send a specific sum of money to care for the dependant. It may be revoked, reduced, or otherwise altered only at the discretion of the service member.

#### 9-014 OFFSET PROGRAMS

9-014.01 Federal Tax Offset and Administrative Offset: The Federal Tax and Administrative Offset programs authorize the intercept of federal tax refunds and certain federal payments for the purpose of collecting past-due support.

The federal payments eligible for administrative offset include but are not limited to:

1. Federal retirement payments;
2. Vendor and miscellaneous payments for example expense reimbursement and travel payments).

It includes both recurring and non-recurring payments.

Payments that are excluded from the Administrative Offset Program include:

1. Benefit payments from the Department of Veteran Affairs;
2. Payments made by the Department of Education under Title IV of the Higher Education Act;
3. Social Security payments;
4. Railroad retirement payments;
5. Payments made under Part B of the Black Lung Benefits Act;
6. Payments under means-tested programs that, upon request, are exempted by the head of the Federal Agency which administers the program;
7. Any type of payment, upon the written request of the head of the agency which authorizes the payments, if the offset would tend to interfere substantially with, or defeat the purposes of, the payment agency's program;

8. Payments made under the Internal Revenue Code of 1986 (except tax refund payments that are subject to administrative offset under separate authority); and
9. Payments made under the tariff laws of the United States.

9-014.02 Eligibility for Federal Tax Offset and Administrative Offset

9-014.02A Public Assistance Cases: To be eligible for Federal Tax Offset and Administrative Offset, support must have been assigned to the State, and must meet the following requirements:

1. The support obligation(s) has been established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is at least \$150;
3. The arrearage on one or more of these cases is at least three months old;
4. Submittal to the Federal Tax Offset program continues after the child(ren) reaches the age of majority;
5. The delinquency is for support and maintenance of a child;
6. Child Support Enforcement has verified the accuracy of the delinquent support, and has a copy of the order(s) and any modifications; and
7. Child Support Enforcement has verified the non-custodial party's name and social security number.

When a case(s) meets the above criteria, it will be submitted for intercept. This includes cases in which the obligor has entered into a payment plan.

9-014.02B Non-Public Assistance and Medicaid-Only Cases: To be eligible for Federal Tax Offset and Administrative Offset, non-public assistance and Medicaid-Only IV-D cases must meet the following requirements:

1. The support obligation(s) has been established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is at least \$500;
3. The arrearage on one or more of these cases is at least three months old;
4. Submittal to the Federal Tax Offset program continues after the child(ren) reaches the age of majority;
5. Child Support Enforcement has verified the accuracy of the delinquent support and has a copy of the order(s) and any modifications;
6. Child Support Enforcement has checked its records to determine if there are delinquent ADC or foster care support (state debt) amounts;
7. Child Support Enforcement has verified the non-custodial party's name and social security number; and
8. Child Support Enforcement has the custodial party's current address.

When a case(s) meets the above criteria, it will be submitted for intercept. This includes cases in which the obligor has entered into a payment plan.

9-014.03 Notice of Offset: Child Support Enforcement must send a written notice at least annually to all non-custodial parties identified for the Federal Tax Offset and Administrative Offset programs. The notice must include information regarding:

1. The right to contest the State's determination that past-due support is owed or the amount of past-due support;
2. The right to an administrative review by Child Support Enforcement Central Office;
3. The procedures and timeframes to request an administrative review;
4. In the case of a joint return, at the time of the offset, the Secretary of the U.S. Treasury will notify the non-obligated spouse of the non-custodial party of the steps to take to protect the share of the refund which may be payable to that spouse; and
5. Any further arrears accruing due to payments missed may be added to the non-custodial party's debt and will be subject to collection by Federal Tax Offset and/or Administrative Offset now or in the future without notice.

9-014.04 Contesting Federal Tax Offset or Administrative Offset: The non-custodial party may request an administrative review to contest the submittal of his/her name for offset of tax refunds and/or federal payments in either the submitting state or the state with the order for support. The request must be made in writing postmarked within 45 calendar days of the date of the notice of referral. The request must be made based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. An error in the amount of past-due support; or
3. The non-existence of an order for support.

If an amount that has already been offset through the federal tax offset program is found to have exceeded the amount of past-due support owed, Child Support Enforcement must refund the excess amount to the non-custodial party. Child Support must provide the non-custodial party with an advance refund if the collection has been offset but has not yet been received from the Department of the Treasury. The non-custodial party must furnish a copy of the notice of offset from the Department of the Treasury to verify the amount of the offset to be eligible for an advance refund.

9-014.04A Conducting the Administrative Review: Child Support Enforcement Central Office must review the pertinent facts of the case to determine if the non-custodial party's referral for offset is warranted. Child Support Enforcement Central Office must notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-014.04A1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-014.04B Request for an Administrative Hearing: To request an administrative hearing, the non-custodial party must send a written request to the Department within 30 calendar days of the date of the administrative review finding.

9-014.04B1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, t seq.

9-014.04B2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-014.04B3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-014.04C Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-014.05 Submitting Interstate Cases for Federal Offset: The state submitting a certification of past-due support for enforcement must inform any other state involved in enforcing the support order when it submits an interstate case and when it receives a federal offset amount. If the debt submitted is based upon another state's support order, the submitting state must communicate with the other state for purposes of verification of arrears or, when necessary, to obtain a copy of the order or the payment record prior to submitting the certification.

In interstate cases, the state in which the public assistance assignment or nonassistance application for IV-D services has been filed for example, the initiating state), must submit the past-due support for federal tax refund and/or administrative offset. It is necessary to specify which state must submit the past-due support debt for offset to avoid multiple states submitting the same arrearage.

If a state submits a case for federal income tax refund or administrative offset on the basis of another state's child support order, the submitting state must comply with the other state's laws regarding offsets. The taxpayer may request an administrative review in either the submitting state or the state which issued the order. States conducting administrative reviews must not delete cases submitted by another state simply because they would not have been submitted, for policy reasons, by the state with the order.

9-014.05A Joint Returns/Non-Obligated Spouse Claim: To claim his/her portion of a withheld joint federal income tax refund, a non-obligated spouse must file an Injured Spouse Claim and Allocation form with the IRS within 6 years following the end of the tax year. IRS will calculate the portion of the joint tax refund attributable to the non-obligated spouse's earnings and return that portion to the non-obligated spouse. If the IRS makes an adjustment, and payment has been made to a custodial party, Child Support Enforcement Central Office will recover the adjusted amount from the custodial party. One recovery option available includes retaining future offset collections to which the custodial party would otherwise be entitled. See 466 NAC 11-006.

9-014.06 Distribution of Collections: Collections received by Child Support Enforcement Central Office as a result of federal tax refund offset must be distributed as past-due support in accordance with 466 NAC 11-002.04 Federal Income Tax Offset Distribution. If the collection is based on a joint tax return, the state may delay disbursement until notification that the unobligated spouse's proper share of the refund has been paid or for a maximum of six months.

Collections received as a result of administrative offset must be distributed in accordance with 466 NAC 11-000.

This program authorizes the intercept of Nebraska tax refunds for the purpose of collecting child support. State tax refunds may also be intercepted to satisfy spousal support when the obligor owes for the support of a spouse who is living with the child(ren) for whom the obligor also owes child support.

9-014.07 Referral to the Department of Revenue for Tax Refund Offset: Child Support Enforcement may submit any past-due support obligation of at least \$25 to the Department of Revenue by December 1 of each year for possible offset of a tax refund.

9-014.07A Notice to the Non-custodial Party of Referral: Child Support Enforcement must notify the non-custodial party of its intent to refer to the Department of Revenue his/her past-due support obligation for possible offset of a tax refund. The notice of intent to refer a past-due support obligation to the Department of Revenue for possible offset must include information regarding:

1. The right to contest the State's determination that past-due support is owed or the amount of past-due support;
2. The right to an administrative review by Child Support Enforcement Central Office;
3. The procedures and timeframes to request an administrative review; and
4. The procedures implemented by the Department of Revenue in the case of a joint return.

9-014.08 Contesting State Tax Offset: The non-custodial party may request an administrative review to contest the referral to the Department of Revenue or to contest the intercept of the tax refund. The request must be made in writing postmarked within 45 calendar days of the date of the notice of referral or intercept. The request must be made based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. An error in the amount of past-due support; or
3. The non-existence of an order for support.

9-014.08A Conducting the Administrative Review: Child Support Enforcement Central Office must review the pertinent facts of the case to determine if the non-custodial party's referral to the Department of Revenue is warranted. Child Support Enforcement Central Office must notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-014.08A1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-014.08B Request for an Administrative Hearing: To request an administrative hearing, the non-custodial party must send a written request to the Department within 30 calendar days of the date of the administrative review finding.

9-014.08B1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-014.08B2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-014.08B3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-014.08C Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-014.09 Receipt to Non-custodial Party of Offset Support: Upon completion of the offset, Child Support Enforcement Central Office must send the non-custodial party a receipt of support offset by a tax refund. The receipt must include:

1. The final amount of refund the non-custodial party was entitled to before offset;
2. The past-due support obligation; and
3. The amount remaining after offset to be reimbursed to the non-custodial party, if any.

9-014.10 Joint Returns/Non-Obligated Spouse Claim: The non-obligated spouse of the non-custodial party who signed a joint tax return is entitled to receive 50% of the state income tax refund. However, if it can be proven by the non-obligated spouse that she/he paid more than 50% of the couples' tax, a request can be made to the Child Support Enforcement Central Office for the allotted portion of the refund.

9-014.11 Distribution of Collections: Collections received by the Child Support Enforcement Central Office as a result of state tax refund offset must be distributed in accordance with 466 NAC 11-000.

9-015 STATE LOTTERY PRIZE OFFSET: Nebraska State lottery prizes in excess of \$500 are subject to an offset to satisfy a delinquency of \$25 or more pursuant to a support order. Lottery prizes may also be offset to satisfy spousal support that have accrued pursuant to an obligation assessed against a non-custodial party for the support of a spouse who is living with the child(ren) for whom the non-custodial party also owes support. The Department may pursue the collection of a past-due support obligation after the child has reached the age of majority.

9-015.01 Referral to the Department of Revenue for a Lottery Prize Offset: The Department of Revenue must access the Department's child support records when redeeming a lottery ticket for a prize in excess of \$500 to determine if the winner has a past-due support obligation.

9-015.01A Notification from Department of Revenue: When a non-custodial party with a past-due support obligation has presented a winning lottery ticket for redemption, the Department of Revenue must give the non-custodial party a written notice informing the non-custodial party that their lottery prize is being withheld due to past-due support being owed.

The Department of Revenue must notify the Department when written notification has been given to a non-custodial party with a past-due support obligation of \$25 or more, wins a State lottery prize in excess of \$500.

9-015.02 Notification to Non-custodial party of Offset: Within 20 calendar days of receiving notification from the Department of Revenue that a non-custodial party with a past-due support obligation has presented a winning lottery ticket for redemption, the Department will send a notice to the non-custodial party that the lottery prize will be offset to satisfy a past-due support obligation.

9-015.02A Content of Notice of Offset: The notice must include:

1. The basis for the claim to the lottery prize;
2. The intention to apply the lottery prize to offset a past-due support obligation(s);
3. The right to request an administrative review;
4. The mailing address of where to send the request for an administrative review; and
5. That the failure to request an administrative review in the allotted timeframe results in a denial to have an administrative review.

9-015.02B Request for Administrative Review: If the non-custodial party believes that the lottery prize winnings were intercepted in error, the non-custodial party must request an administrative review. The request must be in writing and postmarked within 45 calendar days of the date of the advance notice, and be based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. No order for support; or
3. The non-custodial party disagrees with the arrearage amount.

9-015.02C Conducting the Administrative Review: The Department will review the pertinent facts of the case to determine if the lottery prize winnings will be intercepted. The Department will notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-015.02C1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-015.02D Request for an Administrative Hearing: The non-custodial party may request an administrative hearing to appeal the administrative review finding. The non-custodial party must send a written request for an administrative hearing to the Department within 30 calendar days of the date of the administrative review finding. If the request is not postmarked within 30 calendar days of the date of the administrative review finding, the Department will deny the administrative hearing request.

9-015.02D1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff, and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-015.02D2 Hearing Date: The Department will provide an opportunity for a hearing within 30 days after receipt of a proper written request.

9-015.02D3 Hearing Results: The Department will notify any person refusing to comply with an administrative subpoena and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-015.02E Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-016 PASSPORT DENIAL/REVOCAION: All Child Support cases that meet the established criteria, are subject to passport denial/revocation, pursuant to certification by Child Support Enforcement Central Office to the Federal Secretary of Health and Human Services.

Submittal to the passport denial/revocation program continues after the child reaches the age of majority.

9-016.01 Eligibility for Passport Denial/Revocation

9-016.01A Public Assistance Cases: To be eligible for the passport denial/revocation program, support must have been assigned to the State, and must meet the following criteria:

1. The support obligation was established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is in excess of \$2,500;
3. The delinquency must be for support and maintenance of a child or of a child and the parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the non-custodial party is not making payments as ordered;
4. The state IV-D agency must have verified the accuracy of the delinquent support and have a copy of the order, any modifications, the pay record or an affidavit signed by the court-ordered payee (custodial party) attesting to the accuracy and amount of delinquency;



5. The state must have verified the non-custodial party's name and Social Security number;
6. The state IV-D agency must have the custodial party's current address; and
7. The delinquent support will remain subject to the passport denial/revocation program until the arrears are paid in full.

When a case(s) meets the above criteria, it will be submitted for passport denial/revocation. This includes cases in which the obligor has entered into a payment plan.

The state may not submit a case in which the non-custodial party or his/her spouse has filed bankruptcy under Title 11 of the United States Code, "unless the automatic stay of enforcement under section 362 of the Bankruptcy Codes has been lifted or is no longer in effect with respect to the individual owing the obligation and the obligation was not discharged by the bankruptcy proceeding". See 466 NAC 9-006.

9-016.01B Non-Public Assistance Cases: To be eligible for the passport denial/revocation program, non-public assistance and Medicaid-Only IV-D cases must meet the following criteria:

1. The support obligation was established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is in excess of \$2,500;
3. The delinquency must be for support and maintenance of a child or of a child and the parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the non-custodial party is not making payments as ordered;
4. The state IV-D agency must have verified the accuracy of the delinquent support and have a copy of the order, any modifications, the pay record or an affidavit signed by the court-ordered payee (custodial party) attesting to the accuracy and amount of delinquency;
5. The state must have verified the non-custodial party's name and Social Security number;
6. The state IV-D agency must have the custodial party's current address;
7. In non-ADC or Medicaid only cases, the state IV-D agency has checked its records to determine if there are delinquent ADC or foster care support (state debt) amounts; and
8. The delinquent support will remain subject to the passport denial/revocation program until the arrears are paid in full.

When a case(s) meets the above criteria, it will be submitted for passport denial/revocation. This includes cases in which the obligor has entered into a payment plan.

The state may not submit a case in which the non-custodial party or his/her spouse has filed bankruptcy under Title 11 of the United States Code, "unless the automatic stay of enforcement under section 362 of the Bankruptcy Codes has been lifted or is no longer in effect with respect to the individual owing the obligation and the obligation was not discharged by the bankruptcy proceeding". See 466 NAC 9-006.

9-016.02 Notification to Non-custodial party of Passport Denial/Revocation: Written notice is sent at least annually to the non-custodial party identified for the passport denial/revocation program. The notice must include information regarding:

1. The right to contest the State's determination that past-due support is owed or the amount of past-due support;
2. The right to contest the referral by requesting an administrative review in either the submitting state or the state with the order for support;
3. The procedures and timeframes to request an administrative review; and
4. Any further arrears accruing due to payments missed may be added to the non-custodial party's debt and will be subject to submittal to the passport denial/revocation program now or in the future without notice.

9-016.02A Contesting Passport Denial/Revocation: The non-custodial party may request an administrative review to contest the referral to the Federal Secretary of Health and Human Services for passport denial/revocation. The request must be made in writing postmarked within 45 calendar days of the date of the notice of referral for passport denial/revocation. The request must be made based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. An error in the amount of past-due support;
3. The non-existence of an order for support; or
4. The non-existence of a support obligation for the non-custodial party.

9-016.03 Notification to State with the Original Order: If the support order is from another state, the complaint cannot be resolved, and the non-custodial party requests an administrative review in the state with the original order, the Department notifies that state within ten days of the date of the request by the non-custodial party. The Department will provide that state with the proper documentation (including a copy of the order and any modifications, a copy of the payment record or the custodial party's affidavit, and the custodial party's address for non-ADC/Medicaid only cases).

The state receiving the interstate request to conduct an administrative review must then contact the non-custodial party (and custodial party in non-ADC cases) and advise them of the date, time, and place of the review. The state must conduct the review and make a decision within 45 days of the receipt of the information and request from the submitting state. OCSE must also be notified if the administrative decision results in a deletion or modification of the delinquent support amounts.

9-016.03A Conducting the Administrative Review: The Department will review the pertinent facts of the case to determine if the non-custodial party's referral for passport denial/revocation is warranted. The Department will notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-016.03A1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-016.03B Request for an Administrative Hearing: To request an administrative hearing, the non-custodial party must send a written request to the Department within 30 calendar days of the date of the administrative review finding.

9-016.03B1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-016.03B2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-016.03B3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-016.03C Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-016.03D Notification to OCSE: If the decision resulting from the administrative review or appeal hearing lowers the delinquent support amount or zeroes the debt entirely, the Department will notify OCSE of the deletion or modification within ten days.

9-017 U.S. ATTORNEY REFERRAL: On October 25, 1992, the Child Support Recovery Act of 1992 was enacted. On June 24, 1998 Congress modified provision of the Child Support Recovery Act adding a felony provision for willful failure to pay court ordered support for a child residing in another state.

9-017.01 Offense: Failure to pay legal child support obligation by any person who:

1. Willfully fails to pay a support obligation with respect to a child who resides in another state, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$5,000;
2. Travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$5,000; or
3. Willfully fails to pay a support obligation with respect to a child who resides in another state, if such obligation has remained unpaid for a period longer than 2 years, or is greater than \$10,000 may be punished as a felony.

9-017.02 Presumption: The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the non-custodial party has the ability to pay the support obligation for that time period.

9-017.03 Referral Criteria: The county/authorized attorney will review potential cases for referral to the U.S. Attorney to ensure that they meet the referral criteria. After review of the potential cases, the county/authorized attorney must send the cases to Child Support Enforcement\_Central Office after determination has been made that the cases meet the following criteria:

1. The non-custodial party must have the ability to pay. The ability to pay does not require an ability to pay either total current or total arrearages;
2. The non-custodial party has willfully failed to pay his/her administrative or court ordered support obligation;
3. The non-custodial party must know of his/her past-due support obligation. The non-custodial party must have been properly served the order for support;
4. The past due support obligation must be greater than \$5,000 or must have remained unpaid for a period longer than 1 year;
5. The past due support obligation must be greater than \$10,000 or must have remained unpaid for a period longer than 2 years; may be punished as a felony; and
6. The child must live in Nebraska, and the non-custodial party must live in a state other than the State of Nebraska.

9-017.04 Penalties: The Guideline penalties for a misdemeanor under the statute are:

1. For the first offense, not more than 6 months imprisonment and/or a fine of \$5,000; and
2. For the second and subsequent offense, not more than 2 years imprisonment and/or a fine of \$250,000.

The Guideline penalty for a felony under the statute is not more than 2 years imprisonment and/or a fine of \$250,000.

9-017.05 Mandatory Restitution: Upon a conviction under this section, the court must order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

9-018 DEBT CHECK: Debt Check is an amendment to the Federal Debt Collection Improvement Act of 1996. Debt Check is used by authorized Federal agencies and lending institutions as part of the loan application review process for Federal loans (other than a disaster loan), loan guarantees and loan insurance.

Federal agencies are required to deny loans or loan guarantees to individuals or businesses who owe delinquent non-tax debt to the Federal government (number USC § 3720B and 31 CFR § 285.13). Executive Order 13019 of 1996 extends this denial to delinquent child support debtors whose debts have been referred to Federal Tax and Administrative Offset Programs.

Submittal to the Debt Check Program continues after the child reaches the age of majority.

9-018.01 Eligibility for Debt Check

9-018.01A Public Assistance Cases: To be eligible for Debt Check, support must have been assigned to the State, and must meet the following requirements:

1. The support obligation has been established under a court order or an order of an administrative process established under state law;
2. The delinquent amount of support is at least \$150;
3. The arrearage is at least three months old;
4. The delinquency is for support and maintenance of a child or of a child and parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the non-custodial party is not making payments as ordered;

5. The delinquency is for support and maintenance of a child;
6. Child Support Enforcement Central Office has verified the accuracy of the delinquent support, and has a copy of the order and any modifications; and
7. Child Support Enforcement Central Office has verified the non-custodial party's name and social security number.

When a case meets the above criteria, it will be submitted for Debt Check. This includes cases in which the obligor has entered into a payment plan.

9-018.01B Non-Public Assistance and Medicaid-Only Cases: To be eligible for Debt Check, non-public assistance and Medicaid-Only IV-D cases must meet the following requirements:

1. The support obligation has been established under a court order or an order of an administrative process established under state law;
2. The delinquent amount of support is at least \$500;
3. The arrearage is at least three months old;
4. The delinquency is for support and maintenance of a child or of a child and parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the non-custodial party is not making payments as ordered;
5. Child Support Enforcement Central Office has verified the accuracy of the delinquent support and has a copy of the order and any modifications;
6. Child Support Enforcement Central Office has checked its records to determine if there are delinquent ADC or Foster Care support, (state debt) amounts;
7. Child Support Enforcement Central Office has verified the non-custodial party's name and social security number; and
8. Child Support Enforcement Central Office has the custodial party's current address.

When a case meets the above criteria, it will be submitted for Debt Check. This includes cases in which the obligor has entered into a payment plan.

9-018.02 Notice: Child Support Enforcement Central Office must send written notice at least annually to all non-custodial parties identified for the Debt Check Program. The notice must include information regarding:

1. The right to contest the State's determination that past-due support is owed or the amount of past-due support;
2. The right to an administrative review by Child Support Enforcement Central Office;
3. The procedures and timeframes to request an administrative review;
4. Any further arrears accruing due to payments missed may be added to the non-custodial party's debt and will be subject to collection now or in the future without further notice.

9-018.03 Contesting Debt Check: The non-custodial party may request an administrative review to contest the submittal of his/her name for Debt Check. The request must be made in writing postmarked within 45 calendar days of the date of the notice of referral. The request must be made based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. An error in the amount of past-due support; or
3. The non-existence of an order for support.

9-018.03A Conducting the Administrative Review: Child Support Enforcement Central Office must review the pertinent facts of the case to determine if the non-custodial party's referral for Debt Check is warranted. Child Support Enforcement Central Office must notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-018.03A1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-018.03B Request for an Administrative Hearing: To request an administrative hearing, the non-custodial party must send a written request to the Department within 30 calendar days of the date of the administrative review finding.

9-018.03B1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-018.03B2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-018.03B3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-018.03C Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-019 Unclaimed Property Offset: The Uniform Disposition of Unclaimed Property Act Neb. Rev. Stat. §69-1301 et seq. provides the State Treasurer with the authority to make payments toward child support obligations when the obligor under a support order is the owner of unclaimed property and the obligor has past-due child support.

The Treasurer may file a claim under the Uniform Disposition of Unclaimed Property Act when the owner of the property has a case(s) that meets the following requirements:

1. The owner has a child support obligation(s) that has been established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is at least \$25;
3. The arrearage on one or more of the cases is at least 30 days old; or
4. The delinquency is for support and maintenance of a child: Delinquent support may only include child support.

The Department may pursue the collection of a past-due support obligation after the child has reached the age of majority.

9-019.01 Notification from Department: When a non-custodial party with a past-due support obligation of greater than 30 days is found to be the owner of unclaimed property, the Department will give the non-custodial party written notice informing the non-custodial party that their unclaimed property will be offset to satisfy a support obligation.

9-019.01A Content of Notice of Offset: The notice must include:

1. The basis for the claim to the unclaimed property;
2. The intention to apply the unclaimed property to offset a support obligation(s);
3. The right to request an administrative review;
4. The mailing address of where to send the request for an administrative review;
- and
5. That the failure to request an administrative review in the allotted timeframe results in a denial to have an administrative review.

9-019.01B Request for Administrative Review: If the non-custodial party believes that the unclaimed property was intercepted in error, the non-custodial party must request an administrative review. The request must be in writing and postmarked within 45 calendar days of the date of the advance notice, and be based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. No order for support; or
3. The non-custodial party disagrees with the arrearage amount.

9-019.01B1 Conducting the Administrative Review: The Department will review the pertinent facts of the case to determine if the unclaimed property will be intercepted. The Department will notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-019.01B1a Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-019.01C Request for an Administrative Hearing: The non-custodial party may request an administrative hearing to appeal the administrative review finding. The non-custodial party must send a written request for an administrative hearing to the Department within 30 calendar days of the date of the administrative review finding. If the request is not postmarked within 30 calendar days of the date of the administrative review finding, the Department will deny the administrative hearing request.

9-019.01C1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff., and the Administrative Procedure Act, Neb. Rev. Stat. §84-901, et seq.

9-019.01C2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-019.01C3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-019.01D Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.



## CHAPTER 11-000 COLLECTION AND DISTRIBUTION

This chapter outlines the role and responsibility of Child Support Enforcement in the collection, distribution and disbursement of support payments.

11-001 COLLECTION OF SUPPORT PAYMENTS: Federal and State law require the Department to operate a State Disbursement Unit (SDU) for the purpose of receiving, receipting, distributing, and disbursing child support payments. All support orders must direct that all payments be made to the SDU, with the following exceptions:

1. Payments for spousal support, alimony, or maintenance support that does not also provide for child support in the court order;
2. Payments constituting child care or day care expenses; and
3. Payments constituting court costs, attorney fees, and other court-related expenses.

These exceptions will continue to be processed by the clerks of the district courts.

11-002 DISTRIBUTION: Distribution of support payments is governed by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). Support payments, except for amounts collected through federal income tax refund offset, must be distributed as follows:

1. First, distribute the amount collected to satisfy the current monthly support obligations in the following order: Child support, spousal support, and lastly medical support;
2. Second, toward any arrearages owed, in the following order: Child support arrearage, spousal support arrearage, and lastly medical support payment arrearage; and
3. Third, toward the interest on any payment arrearage, in the same order of priority listed in (2) above.

If an obligor has more than one order, collections must be allocated proportionately across all orders. Collections that will be allocated proportionately include, but are not limited to:

1. Administrative Offset;
2. Direct pay;
3. Income Withholding; or
4. Lottery Offset.

Exceptions to proportionate allocation include, but are not limited to collections received from:

1. Administrative Attachment;
2. Federal and State tax intercept;
3. Passport Revocation Program; or
4. U.S. Attorney enforcement.

11-002.01 Assignment: As a condition of receiving ADC, Medicaid, or foster care, a recipient of services must assign his/her right to any child support, medical support or spousal support payments to the state, to reimburse the state for assistance dollars expended. Application for and acceptance of assistance constitutes an assignment by operation of law.

11-002.01A Assignment as it relates to ADC: In ADC cases, past due support and current support that becomes due while the custodial party is receiving ADC, are assigned. Both the principal amount of unpaid support and any interest that accrues are considered support, and are assigned. The amount of child and/or spousal support that may be retained is limited to the amount of unreimbursed assistance or the collectible state debt, whichever is less, in ADC cases.

11-002.01B Assignment as it relates to Medicaid: In Medicaid cases, the application for, and acceptance of medical assistance constitutes an automatic assignment of the client's rights to third party medical payments.

11-002.01C Assignment as it relates to Foster Care: In foster care cases, the amount that may be retained to reimburse the state is limited to the amount of support due for the months during which foster care assistance payments are made or the unreimbursed assistance, whichever is less.

11-002.01C1 Excess Collections of Current Support in Foster Care Cases: If the amount of support collected on current support in any one month is more than the monthly amount of the foster care maintenance payment, the excess is paid to the state agency responsible for supervising the child's placement and care to serve the best interests of the child, including, but not limited to:

1. Setting aside amounts for the child's future needs; or
2. Making all or part of the amount available to the person responsible for meeting the child's daily needs to be used for the child's benefit.

These excess collections are maintained in the HHS State Ward Account.

11-002.01C2 Excess Collection of Arrears in Foster Care Cases: If the amount of support collected in any one month is more than the amount of support due for the months during which foster care assistance payments are made, this excess amount is paid to the state agency responsible for supervising the child's placement and care to serve the child's best interest. These excess collections are maintained in the HHS State Ward Account.

11-002.02 Partial Termination of Assignment: A case is said to have a partial termination of assignment when the following conditions are met, and a debt to the state still exists:

1. All children listed in the court order are no longer receiving public assistance, including foster care;
2. The public assistance case has been suspended or closed; or
3. The assistance grant has been zeroed.

11-002.03 Final Termination of Assignment: A case is said to have a final termination of assignment when a public assistance case is closed and there is no outstanding state debt. Current support collections and arrearage collections must be distributed to the court-ordered payee from that point forward.

11-002.04 Federal Income Tax Offset Distribution: Any amounts collected through the federal income tax offset represent an arrears collection, and must be applied to state debt first. Any amount above the state debt owed must be distributed to the court-ordered payee for arrearages owed. Collections in excess of arrearages owed must be returned to the obligor whose federal income tax refund was offset. See 466 NAC 9-014.

11-002.05 Undisbursed Support Payments and Abandoned Property: Support payments received prior to December 23, 2001, are subject to the Uniform Disposition of Unclaimed Property Act. Payments received on or after December 23, 2001, are exempt from the Uniform Disposition of Unclaimed Property Act. Support payments received on or after December 23, 2001, that are found to be undistributable will be considered abandoned property.

This abandoned property will be used by the State for child support enforcement as provided below.

11-002.05A Abandoned Property and Program Income: Both IV-D and Non-IV-D funds collected through the State Disbursement Unit but not disbursed or refunded after 3 years after the funds are received, will be considered abandoned property and classified as program income.

11-002.05A1 Classification of Funds: Funds collected through the State Disbursement Unit that are classified as IV-D funds will be considered program income and subject to use by the State and Federal CSE Program. Those funds collected but classified as Non-IV-D funds will be considered program income and subject to use by only the State portion of the CSE Program.

11-002.05B Availability of Funds: The support payments will continue to be available to the payee or other designated recipient. Once the Department is contacted, the legitimacy of the claim will be determined including verification of identity of the payee or other designated recipient. After a legitimate claim is established such funds will be properly disbursed.

When a legitimate claim is honored against the funds previously considered abandoned, the funds reported as program income will then be adjusted to reflect the same on the state payment records. All state and federal reports will be adjusted to reflect that change.

11-003 INTERSTATE CASES: Interstate cases must follow the same distribution format as in-state cases. The responding state is responsible for collecting and monitoring support payments and forwarding payments to the initiating state. The initiating state is responsible for distributing support payments within two business days, using the distribution formula specified by federal and state law. If a responding state deducts any fees from a payment before forwarding the payment to the initiating state, the initiating state must give the non-custodial party credit for the full payment amount, and any unreimbursed assistance will be reduced by the full amount.

11-004 STATE DISBURSEMENT UNIT (SDU): PRWORA requires states to centralize collection and disbursement of support payments through a State Disbursement Unit (SDU). The Nebraska Legislature has enacted legislation to provide for the establishment of an SDU. A public or private entity or state officer, as designated by the Title IV-D Agency, will directly administer and operate the SDU. The designated entity or officer must be directly responsible to the Title IV-D Agency.

11-004.01 Electronic Payment Delivery (or electronic disbursement): Payments disbursed through the SDU will be done by electronic means.

11-004.02 Exceptions to Electronic Disbursement: An individual may qualify for an exception if:

1. An individual has a physical or mental disability;
2. An individual has a court appointed guardian or conservator;
3. An individual lives and/or works more than 5 miles from an automated teller or financial institution where funds may be accessed; or
4. In circumstances not noted above, Child Support Enforcement may consider an exception on an individual basis.

An individual must file a claim with Child Support Enforcement. An exception granted under any of the above conditions may be subject to a periodic review.

#### 11-005 SDU SCOPE OF SERVICES

11-005.01 Customer Billing: The SDU must provide all court ordered obligors monthly billing statements. The billing statements must contain demographic, case, and financial information for obligors to fulfill their financial obligation and for the SDU to process obligor payments. The historical records of all billing information must remain in archive within the statewide child support automated data processing and information system for seven years.

11-005.02 Payment Receipting: The SDU must receipt support payments. A support payment may include child support, medical support and spousal support if it is for the support of a spouse who is living with the child(ren) for whom the obligor also owes support. Any non-monetary transactions will be the responsibility of the Child Support Enforcement Central Office. The SDU must be responsible for processing targeted payments.

11-005.03 Obligor Account Activity Summary: The obligor must receive a quarterly account activity summary statement from Child Support Enforcement Central Office. The statement must contain specific demographic, case, and payment information.

11-005.04 Disbursement: Support order payments must be disbursed to an obligee(s) within two business days after receipt of the support payment at the SDU. Disbursements may be delayed for the following reasons which include, but are not limited to:

1. A payment does not include accurate identification information;
2. An obligor's whereabouts are unknown;
3. An appeal regarding arrearages has not been resolved;
4. A payment exception applies;
5. Insufficient funds check;
6. Rejected receipts;
7. Items damaged by the post office;
8. Foreign currency collection;
9. Court ordered payments for the release or avoidance of incarceration;
10. Collections received as a result of federal income tax refund offsets based upon joint tax returns; or
11. Collections received as a result of state income tax refund offsets.

The historical records of all disbursement information must remain in archive within the statewide child support automated data processing and information system for seven years.

11-005.05 Payment Records: The Department's Title IV-D Agency must maintain records of payments for all cases in which the SDU receipts and disburses support order payments. A copy of such a support payment record will be a true copy of the record when certified by a person designated by the Department's Title IV-D Agency. The Clerks of the District Court must maintain records of payments and disbursement they made prior to the SDU implementation date. The court must continue to maintain control over court records.

11-005.06 Customer Service: The SDU must provide customer service to employers, custodial and non-custodial parties, Clerks of the District Court, and other stakeholders regarding receipt and disbursement of support payments. The personal assistance line must receive calls Monday through Friday, from 7:00 a.m. until 6:00 p.m. Central Standard Time. The automated component of the system, Voice Response Unit (VRU), must be available at least 23 hours a day, seven days a week.

11-005.07 Insufficient Funds Checks: The SDU must be responsible for insufficient funds checks received or electronic payments not accepted. The SDU must mail notices to obligors, or other payors, who submit insufficient funds checks or electronic payments that are not accepted. The SDU may collect a fee equal to the actual cost of processing an insufficient funds check or an electronic payment not accepted. ~~After a payor has originated two insufficient funds checks or electronic payments not accepted within a period of two years, the SDU may notify the payor that, for the following year, all payments are required to be made by money order, cashier's checks, or certified check. After a payor has originated three insufficient funds, checks or electronic payments not accepted, the SDU may notify the payor that all future payments are required to be made by money order, cashier's check, or certified check.~~

11-005.07A Bad Debt Payments: After the payor has originated two bad debt payments to the SDU in a period of one year, the SDU may refuse to accept future payments by check and may require a money order, cash, a cashier's check, or a certified check for payment.

11-005.08 Business Practices and Standards: The SDU must adhere to applicable State Plan, Nebraska Administrative Code, and Code of Federal Regulation requirements. Acceptable business practices for the SDU must involve adhering to General Accepted Accounting Principles (GAAP). A Certified Public Accounting firm must perform an annual audit of the SDU financial statements and records. The audit must be based on Generally Accepted Auditing Standards (GAAS).

11-005.09 The State Disbursement Advisory Commission: The Executive Board of the Legislative Council will appoint the members of the State Advisory Commission. The Commission may recommend to the Department's Title IV-D Agency ways to enhance effectiveness of the SDU. Recommendations for improvement may also include recommending legislation to clarify and improve state law related to the SDU.

11-006 RECOVERY OF DIRECT PAYMENTSIV-D AND FORMER IV-D RECOVERY OF OVER-PAYMENTS: ~~DHHS IV-D staff or designated IV-D contract staff must take action to recover direct support payments made by a non-custodial party that are received by an overpaid party. The Department must take reasonable efforts to recoup all IV-D and former IV-D overpayments regardless of cause. These overpayments include but are not limited to:~~

1. Overpaid Party and/or their child(ren) received support payments while receiving ADC;
2. Overpaid Party and/or their child(ren) received support payments while receiving foster care assistance;
3. Overpaid Party received support payments that were due to the State of Nebraska based on overpaid party having previously received ADC;
4. Overpaid Party received support payments that were due to another court ordered payee; or
5. Overpaid Party received tax intercept dollars in error tor the tax offset dollars are returned to the IRS due to an amended tax return.

~~11-006.01 Identify Recovery of Direct Payment: DHHS IV-D staff or designated IV-D contract staff must do the following prior to establishing a repayment agreement with an overpaid party~~Non-IV-D RECOVERY OF OVERPAYMENTS: The Department must make reasonable efforts to recoup Non-IV-D overpayments when the overpaid party received support payments that were due to another court ordered payee.

11-006.02 IDENTIFICATION OF OVERPAYMENTS: DHHS IV-D staff or designated IV-D contract staff must do the following prior to establishing a repayment agreement with an overpaid party:

1. Document that the overpaid party has, in fact, received support payments in error; ~~and retained direct support payments, and the amounts;~~
2. Provide written notice of intent to recover the payments to the overpaid party that includes the following:
  - a. An explanation of the overpaid party's responsibility to cooperate by ~~turning over direct payments~~returning support payments as a condition of eligibility for ADC, and the sanction for failure to cooperate;
  - b. A detailed list of the ~~direct support~~ payments which have been retained by the overpaid party, as documented by DHHS IV-D Staff including the dates and amounts of these payments as well as a description of any documentary evidence (such as photocopies of the checks) which DHHS IV-D staff or designated IV-D contract staff possesses;

- c. A proposal for a repayment plan between the recipient and the Department; and
  - d. An explanation that repaying retained direct payments to the Department according to a signed repayment plan meets the condition of cooperation; and
3. Provide the overpaid party with an opportunity for an informal meeting to clarify the overpaid party's responsibilities and to resolve any difference regarding repayment of the directly received support by the overpaid party.

11-006.02-03 Requirement of the Repayment Agreement: The repayment agreement between the Department and the overpaid party who has received and retained direct support payments must be reasonably related to:

1. The overpaid party's income and resources including the ADC grant; and
2. The total amount of retained support.

11-006.03-04 Referral to the IV-A Agency for Non-cooperation: DHHS IV-D staff or designated IV-D contract staff must refer a case to the IV-A agency with evidence of failure to cooperate if:

1. The overpaid party refuses to sign a repayment agreement; or
2. The overpaid party enters into a repayment agreement but subsequently fails to make a payment under the terms of the agreement.

11-006.04-05 Subsequent Notification to the IV-A Agency: If DHHS IV-D staff or designated IV-D contract staff have referred a case to the IV-A agency with evidence of failure to cooperate, the DHHS IV-D staff or designated IV-D contract staff must notify the IV-A agency when either of the following changes in circumstances occurs:

1. The overpaid party who refused to enter into a repayment agreement consents to do so and signs the agreement; or
2. The overpaid party who defaulted on an agreement begins making regularly scheduled payments according to the agreement: Under this paragraph, a regularly scheduled payment is a payment made in the current month for the amount specified in the initial repayment agreement between the Department and the overpaid party. The resumption of regularly scheduled payments cannot be interpreted to mean payment of amounts which were not paid during the period of default, nor amounts which could be categorized as balloon payments or which would be due as a result of an acceleration clause. To recover amounts due from any period of default, the Department will extend the duration of the repayment agreement.

11-006.05-06 Enforcement Actions: The Department will consider other enforcement actions if the overpaid party refuses or fails to repay any assigned support. These actions include but are not limited to:



1. The Department will apply future support payments to offset the amount of the overpayment when the overpaid party:
  - a. Appeal is not upheld;
  - b. Does not enter into a payment agreement; or
  - c. Fails to make payments in accordance with the terms of the signed payment agreement; or
- 1-2. Contact with the county/authorized attorney to request a judgment against the overpaid party; or
- 2-3. Contact with a private attorney or collection agency to assist with the collection of the assigned support.

11-006.06-07 Request for Administrative Review: The overpaid party may request an administrative hearing to appeal any enforcement action taken to recover support overpayments. In order to suspend collection efforts, the overpaid party must send a written request for an administrative hearing to the Department within 10 calendar days of the date of notification of the overpayment. The overpaid party may request a hearing within 90 calendar days of the notification of overpayment, but collection efforts will continue. If the written request is not postmarked within 90 calendar days of the date of the administrative review finding, the Department is required to deny the administrative hearing request.

11-006.06A-07A Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff, and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

11-006.06A1-07A1 Hearing Date: The Department is required to provide an opportunity for a hearing within 30 days after receipt of a proper written request.

11-006.06A2-07A2 Hearing Results: The Department is required to notify any person receiving an administrative hearing and Child Support Enforcement Central Office of the hearing results within 15 calendar days of the hearing.

11-006.06B-07B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.